

1900

NANKU
RAM
v.
THE
INDIAN
MIDLAND
RAILWAY
COMPANY.

to a decree for the amount claimed, the correctness of which was not disputed. We may mention that the railway company was not represented in the appeal before us, and that consequently the appeal has been heard *ex parte*. The result is, that we allow the appeal, and, setting aside the decrees of the Courts below, decree the claim as laid in the plaint with costs in all Courts and future interest. We direct that the future interest hereby awarded be calculated at the rate of 6 per cent. per annum from the date of suit till the date of realization.

Appeal decreed.

1900.
May 25.

Before Mr. Knox, Acting Chief Justice, and Mr. Justice Blair.

HIMANCHAL SINGH (JUDGMENT-DEBTOR) v. JHAMMAN LAL (DECREE-HOLDER).*

Act No. XIX of 1873 (N.-W. P. Land Revenue Act), section 205B—Court of Wards—Contract entered into by disqualified proprietor whilst his property was under the charge of the Court of Wards.

Section 205B of Act No. XIX of 1873 does not cease to have effect when property to which it might apply is released from the custody of the Court of Wards. Such property cannot at any time be taken in execution of a decree obtained on a contract entered into by a ward of the Court at a time when his property was under the superintendence of the Court.

The facts of this case sufficiently appear from the judgment of the Court.

Babu *Jogindro Nath Chaudhri* (for whom Babu *Satya Chandar Mukerji*) and *Munshi Gulzari Lal*, for the appellant.

Munshi Gobind Prasad for the respondent.

KNOX, ACTING C. J., and BLAIR, J.—The order passed by the learned Subordinate Judge is wrong. We do not know whether his attention was or was not drawn to section 205B of Act No. XIX of 1873. It is contended that the contracts out of which this decree issued were contracts entered into by the judgment-debtor while his property was under the superintendence of the Court of Wards. This contention was clearly placed before the learned *vakil* for the respondent and was not contested by him. We take it therefore that the contracts abovementioned were entered into at a time when Himanchal Singh was a ward of Court. If gentlemen of the money-lending profession will

* First Appeal No. 222 of 1899, from a decree of Pandit Raj Nath, Subordinate Judge of Mainpuri, dated the 25th November 1899.

frustrate the object of the law by lending money to wards of Court, they have themselves to thank if they find that their money has been thrown away. Property while under the superintendence of the Court of Wards cannot, without the sanction of the Court, be in any way charged, nor can such property be taken in execution of a decree made in respect of contracts entered into by a ward of the Court while his property is under such superintendence. The contention that the restriction only remains in force so long as the property is under superintendence and is immediately removed the moment the superintendence ceases is not warranted by law.

To put it more clearly. Section 205B of Act No. XIX of 1873 in clear terms provides that no property which has been under the superintendence of the Court of Wards shall be liable to be taken in execution of a decree made in respect of any contract which was entered into by a disqualified person during the time while his property was under such superintendence. To limit the operation of the section to the exact moment when the property is released from the superintendence of the Court of Wards would defeat the manifest object of the Legislature. That intention was that persons whose property was under the superintendence of the Court should not be competent to create without the sanction of the Court any charge upon such property, and that, if they did execute any document purporting to create such charge, that document should at no time have any operation *quoad* the property supposed to be so charged. The whole aim and object of the Legislature would be frustrated if, while the Court of Wards was building up and nursing the estate, the disqualified proprietor should be left free to destroy the work of the Court.

The appeal is decreed, the judgment and decree of the lower Court are set aside, and the application for execution is dismissed with costs.

Appeal decreed.