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month the court passed an order for attachment. The property which Sidh Gopal sought to attach was not, on the 27th of January, 1904, the property of Gorakh Singh. On the date on which the order of attachment was passed, he had nothing but a contingent interest in it, which, under the provisions of section 266, clause *(k)* of the Code of Civil Procedure, was not liable to attachment. The fact that he afterwards acquired the property would not, in our opinion, validate the order of attachment. We allow the appeal, set aside the orders of both the courts below, and dismiss so much of the application of the respondents as refers to the attachment and sale of the property mentioned above. The appellant will get his costs in all Courts.

Appeal decreed.

1906
January 25.

Before Mr. Justice Banerji and Mr. Justice Richards.

ANJUMAN ISLAMIA OF MUTTRA (PLAINTIFF) *v.* NASIR-UD-DIN AND OTHERS (DEFENDANTS).*

Act No. XXI of 1860 *(Societies Registration Act), section* 20—*Charitable society—Religious society existing for the management of a public mosque.*

A religious purpose may be a charitable purpose, and a society for religious purposes will ordinarily be a society for charitable purposes. Charitable purposes are not restricted to the giving of alms or other charitable reliefs, but the words have a much wider legal meaning. *In re White: White* v. *White* (1) followed.

Held that a religious society which had for its object the control and management of, and the protection of the property appertaining to, a certain public mosque, was a society which might legally be registered under the provisions of the Societies Registration Act, 1860.

THIS was a suit brought by a religious society called the Anjuman Islamia of Muttra, registered under Act No. XXI of 1860, to recover possession of a certain shop, with mesne profits. The plaintiffs alleged that they were the managers of a certain mosque in Muttra, built during the reign of the Emperor Aurangzeb by one Abdul Nabi Khan. Attached to this mosque were three shops. These shops were made over to a Hindu family, who used in return to perform the service of ringing

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* Second Appeal No. 439 of 1904, from a decree of W. F. Wells, Esq. District Judge of Agra, dated the 26th of February, 1904, reversing a decree of Munshi Maharaj Singh Mathur, Munsif of Muttra, dated the 29th of August, 1903.

(1) L. R., 1893: 2 Ch. D. 41.

the bell of the mosque. The last male member of the family was one Parsotam. After his death, his widows, Rupo and Chando, relinquished these shops to the plaintiffs in 1898, and the plaintiffs obtained possession of two of them. But, notwithstanding this relinquishment, the defendants managed to get possession of the third shop, which the plaintiffs now claimed. The defendants denied the plaintiff's title, and asserted that the mosque and the shops were their private property built by their ancestors. The Court of first instance (Munsif of Muttra) found against the defendants and decreed the plaintiff's claim. On appeal, however, the District Judge of Agra reversed the Munsif's decree and dismissed the suit upon two grounds. First, that the plaintiff society could not be legally registered under Act No. XXI of 1860; and, secondly, that the plaintiffs had failed to show that they were the mutawallis of the mosque. As to the questions of fact raised in the appeal the Court found adversely to the defendants. The plaintiffs thereupon appealed to the High Court.

Mr. *A. E. Ryves*, Maulvi *Muhammad Ishaq* and Maulvi *Rahmat-ullah*, for the appellants.

Munshi *Gulzari Lal* (for whom Babu *Sital Prasad Ghosh*), for the respondents.

BANERJI and RICHARDS, JJ.—The suit out which this appeal has arisen was brought by the appellants who are a society called the Anjuman Islamia of Muttra. This society was registered under Act No. XXI of 1860, and the suit was brought in the name of the society. It appears that in the city of Muttra there is a mosque called the Jama Masjid. To this mosque appertain a number of shops, one of which is claimed in this suit. The defendants are at present in possession of that shop, and the suit is brought to eject them from it and to recover rent. It appears that the shops were assigned to a Hindu family who enjoyed the rents and profits of the shops for their service in ringing the bell of the mosque. The last of the persons who belonged to this family was one Parsotam. After his death his widows, Rupo and Chando, relinquished their rights to enjoy the rents and profits of the shop in favour of the plaintiffs' association in 1898. It is by virtue of this relinquishment that the

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plaintiffs bring the present suit. The defendants denied the plaintiffs' title and asserted that the mosque and the shops were their private property, built by their ancestors. The court of first instance found against the defendants and decreed the plaintiffs' claim. Upon the questions of fact raised in the appeal to the Court below, the learned Judge has arrived at findings adverse to the defendants except upon two points. The first is that the plaintiffs' association was not legally registered under Act XXI of 1860, and was consequently not entitled to maintain the suit in the name of the association. The second is that the plaintiffs have not proved that they are the mutawallis of the mosque. We will consider the second point first. In our judgment it is immaterial for the purposes of this suit to determine whether the plaintiffs are the mutawallis of the mosque or not. The persons who enjoyed the rents and profits of the shop in question transferred their rights to the plaintiffs' association. It is not disputed that the transferors could have sued to eject the defendants, who have been found to be trespassers. If they had the right to sue the defendants, the plaintiffs certainly have the same right. It may be that they are not the mutawallis of the mosque, but, as the learned Judge points out, the defendants also are not the mutawallis. Under the relinquishment to which we have already referred, the plaintiffs have stepped into the shoes of the two ladies, Rupo and Chando, and are entitled to maintain the suit against the defendants.

We have now to consider whether the registration of the plaintiffs' society under Act XXI of 1860 was legal. It was contended that the registration was not legal because the society is a society for religious purposes only and not for charitable purposes. The learned Judge is also of that opinion, but we are unable to agree with him. It is clear that a religious purpose may be a charitable purpose and that a society for religious purposes would ordinarily be a society for charitable purposes. According to the finding of the Court below, the mosque in question is a public mosque for public worship. As observed in *In re White: White* v. *White* (1), any mode of promoting the welfare of mankind would be a charitable object. It appears

(1) L. R., 1893 : 2 Ch. D. 41.

from the judgment of the learned Judge that he thought that the objects of the society not being the distribution of alms or charitable reliefs, the society cannot be regarded as one for charitable purposes. We cannot accept this view. It is well known that charitable purposes are not restricted to the giving of alms or other charitable reliefs, but the words have a much wider legal meaning. We do not think that the Indian Legislature makes a distinction between religious purposes and charitable purposes. The registration of the plaintiffs' society was therefore in our judgment perfectly legal, its object being to obtain possession of the mosque property and other endowed property and to manage it for the benefit of a public mosque. We accordingly allow the appeal, set aside the decree of the court below, and restore that of the court of first instance with costs in all courts.

Appeal decreed.

Before Mr. Justice Banerji.

1906
January 26.

LANGTU PANDE (OBJECTOR) *v.* BAIJNATH SARAN PANDE (DECREE-HOLDER).*

Act No. XV of 1877 *(Indian Limitation Act), Schedule II, Article* 179—*Limitation—Execution of decree—Application not "in accordance with law"—Civil Procedure Code, section* 336—*Insolvency.*

Where the judgment-debtor has applied for a declaration of insolvency and proceedings in insolvency are pending on his application, no application for execution can be made against the judgment-debtor's surety. If, therefore, such application is in fact made it will not be an application "in accordance with law" within the meaning of article 179(4) of the second schedule to the Indian Limitation Act, 1877; *Chatter* v. *Nawal Singh* (1) and *Munawar Husain* v. *Jani Bijai Shankar* (2) followed.

Held, also that the resistance of the decree-holder to the judgment-debtor's application for insolveny will not amount to the taking of a step in aid of execution within the meaning of article 179.

THIS was an appeal against an order of the District Judge of Ghazipur, holding that an application for execution was not barred by limitation.

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* Second Appeal No. 464 of 1905, from a decree of Lala Baijnath Sahib, Rai Bahadur, District Judge of Ghazipur, dated the 30th of March, 1905, confirming a decree of Babu Sikkar Nath Banerji, Munsif of Ballia, dated the 7th of January, 1905.

(1) (1889) I. L. R., 12 All., 64. (2) Weekly Notes, 1905, p. 132.