

APPELLATE CIVIL.

1906
January 18.*Before Mr. Justice Sir George Knox and Mr. Justice Aikman.*

GORAKH SINGH (OBJECTOR) v. SIDH GOPAL AND ANOTHER (DECREE-HOLDERS).*

Civil Procedure Code, section 266(k)—Execution of decree—Attachment—Contingent right—Right of pre-emptor under a conditional decree for pre-emption.

Held that the interest in the [pre-empted] property of a successful pre-emptor who has not yet paid the pre-emptive price fixed by his decree is an interest, the attachment of which is prohibited by section 266(k) of the Code of Civil Procedure.

IN this case one Gorakh Singh having obtained a decree for pre-emption, before he had paid the pre-emptive price, Sidh Gopal and another holding a decree against Gorakh Singh proceeded to attach the property the subject of Gorakh Singh's suit for pre-emption as his. Gorakh Singh filed various objections to the attachment of this property, but his objections were disallowed by the first court (Subordinate Judge of Ghazipur) and the lower appellate court (District Judge of Ghazipur) affirmed the order of the first court. Gorakh Singh appealed to the High Court, contending that, section 266(k) of the Code of Civil Procedure was a bar to the attachment of the pre-empted property before the pre-emptive price had been paid in.

Mr. G. W. Dillon, for the appellant.

Hon'ble Pandit Madan Mohan Malaviya (for whom Munshi Iswar Saran), for the respondents.

KNOX and AIKMAN, JJ.—This appeal must succeed. On the 22nd of January, 1904, the appellant, Gorakh Singh, obtained a decree for pre-emption of a certain property in the usual form, that is, conditional on his paying a sum of Rs. 1,500 within one month, but if the money was not paid the suit was to stand dismissed with costs. Five days afterwards, viz. on the 26th of January, 1904, and before Gorakh Singh had acquired the property, the respondents applied to attach the property which had formed the subject-matter of the pre-emption suit as being the property of the present appellant, and on the 27th of the same

* Second Appeal No. 18 of 1905, from a decree of L. Marshall, Esq., District Judge of Ghazipur, dated the 28th September, 1904, confirming a decree of Maulvi Saiyid Muhammad Tajammul Husain, Subordinate Judge of Ghazipur, dated the 19th of August, 1904.

1906

GORAKH
SINGH
v.
SIDH GOPAL.

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

* 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.