

O.P.W.F.
Before Mr. Justice Aikman and Mr. Justice Karamat Husain.
 PARTAP SINGH (JUDGMENT-DEBTOR) v. THE DELHI AND LONDON
 BANK, Ld. (DECREE-HOLDER).*

1908
 June 5.

*Civil Procedure Code, section 503—Receiver—Appointment of receiver
 realize amounts of decrees under attachment.*

Where a decree-holder had in execution of his decree attached two decrees held by the judgment-debtor against third parties, it was held that section 503 of the Code of Civil Procedure gave power to the Court to appoint a receiver to realize the amounts of the attached decrees where it appeared that by so doing the interests of both decree-holder and judgment-debtor would be better protected.

In this case the Delhi and London Bank, Limited, held a decree against one Partap Singh, for Rs. 35,000. In execution of this decree the Bank attached two decrees held by Partap Singh, the aggregate amount of which was considerably in excess of the Bank's claim. The Bank applied for sale of the decrees. The judgment-debtor presented an application to the Lower Court stating that if the decrees were sold, the result would be that both he and the Bank would be losers, and he prayed the Court to appoint a receiver to realize the amounts of his decrees attached by the Bank. The Court below (Subordinate Judge of Bareilly) agreed with the judgment-debtor that there was very little likelihood of the decrees fetching a suitable price at the auction sale. But he was of opinion that section 503 of the Code of Civil Procedure did not apply to the case and accordingly rejected the application. The judgment-debtor appealed to the High Court.

Dr. Satish Chandra Banerji, for the appellant.

The respondent was not represented.

AIKMAN and KARAMAT HUSAIN, JJ.—This is an appeal from an order of the Court below refusing the appellant's application for the appointment of a receiver. The respondent Bank, which is not represented here, held a decree against the appellant for Rs. 35,000. In execution of this decree the respondent Bank attached two decrees held by the appellant, the aggregate amount of which is said to be upwards of a lakh of rupees. The Bank applied for sale of the decrees. The judgment-debtor presented an application to the lower Court stating that if the decrees were sold, the result would be that both he and

* First Appeal No. 35 of 1907, from an order of Girraj Kishor Datt, Subordinate Judge of Bareilly, dated the 15th of January 1907.

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the Bank would be losers, and he prayed the Court to appoint a receiver to realize the amounts of his decrees attached by the Bank. The learned Subordinate Judge in his order under appeal states that the judgment-debtor's case is a pitiable one, as there is very little likelihood of the decrees fetching a suitable price at the auction sale. But he was of opinion that section 503 of the Code of Civil Procedure did not apply to a case like the present, and accordingly rejected the application. In our opinion the opening words of the section are wide enough to cover a case like the present. We accordingly allow the appeal, set aside the order of the lower Court, and remand the case to that Court with instructions to re-admit the application under its original number in the register and adopt proper steps for the appointment of a receiver. We make no order as to costs.

Appeal decreed.

1908
May 21

Before Mr. Justice Sir George Knox and Mr. Justice Aikman.
KALLU AND ANOTHER (PLAINTIFFS) v. FAIYAZ ALI KHAN AND
OTHERS (DEFENDANTS)*

*Hindu law—Hindu widow—Money advanced on personal security of widow—
Decree against widow binding only on her widow's estate—Res judicata—
Civil Procedure Code, section 13.*

Where money is lent to a Hindu widow on her personal security, a decree for such a debt and a sale of property late of the widow's husband in execution of such decree binds only the widow's estate, notwithstanding that the original debt may have been incurred for legal necessity. *Dhiraj Singh v. Munga Ram* (1) followed.

K and S (two brothers) executed a usufructuary mortgage of their respective shares in certain property. The share of S was then purchased in execution of a simple money decree by D. The share of K was after his death brought to sale in execution of a simple money decree against K's widow and purchased by G. G transferred his rights to R, who was D's brother. D sued for redemption of half the mortgaged property, naming as defendants the mortgagee, the heirs of S, and R. Pending this suit R died and D amended his plaint, claiming redemption of the whole. The heirs of S did not defend this suit, which was decided *ex parte* as against them, and the suit was compromised by D's widow. The heirs of S then, claiming as next reversioners to K on the death of his widow, brought the present suit, seeking to redeem

*Second Appeal No. 819 of 1906 from a decree of J. H. Cuming, Additional Judge of Aligarh, dated the 2nd of August 1906, confirming a decree of Sheo Prasad, Munsif of Khurja, dated the 19th of August 1905.

(1) Weekly Notes, 1897, p. 67.