

lower court is set aside. It shall deliver possession to the appellant as against the respondent, as prayed for in his application for execution. The appellant shall have his costs in both courts.

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RAM
CHAMAN
v.
RAMNESH-
WAR DIXI

REVISIONAL CIVIL

*Before Sir Lal Gopal Mukerji, Acting Chief Justice,
and Mr. Justice Thom*

MADHO PRASAD VYAS (CREDITOR) v. MADHO PRASAD
(OFFICIAL RECEIVER) *

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December, 9

Provincial Insolvency Act (V of 1920), sections 27, 43, 75—

Time specified within which to apply for discharge—Power to extend time even after expiry thereof—Revision of order under Provincial Insolvency Act.

Where an order of adjudication under the Provincial Insolvency Act has been made and a time has been fixed within which the insolvent has to apply for his discharge, the court has power to extend the time even after the expiry of the period originally fixed.

Where an appellate order passed in insolvency proceedings was sought to be revised under section 115 of the Civil Procedure Code, it was held that the proper section under which to entertain the petition was section 75 of the Provincial Insolvency Act.

Mr. N. Upadhiya, for the applicant.

Mr. Gadadhar Prasad, for the opposite party.

MUKERJI, A. C. J., and THOM, J.:—This is an application which purports to have been made under section 115 of the Code of Civil Procedure. It arises out of insolvency proceedings and therefore we think that the proper section under which to entertain this petition is section 75 of the Insolvency Act, and we accordingly do so.

It appears that a firm, Murlidhar Mangilal, was actually declared insolvent on the 30th of May, 1929, and two years' time was allowed by the order to apply

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for a discharge. The insolvents made an application for a discharge on the 2nd of July, 1931, and two days later the receiver supported the application by his petition dated the 4th of July, 1931. The court extended the time for applying for a discharge. The creditor whose application we have got before us appealed to the District Judge and he upheld the order appealed against.

Before us it is contended that it was not open to the insolvency court to extend the time for discharge after the expiry of the time originally fixed, inasmuch as no application had been made previously to the expiry of that period.

The application was made under section 43 of the Insolvency Act which says that, in case no application is made within the period specified by the court, the order of adjudication shall be annulled. Section 27 of the Insolvency Act lays down that the court is entitled, on sufficient cause being shown, to extend the period within which a debtor shall apply for his discharge. It is a rule of interpretation of statutes that we cannot read two different portions of the same statute in a manner so as to make one provision contradict the other. In this view we must hold that the court has power to grant further time to a judgment-debtor to apply for discharge.

In cases where the court is empowered to grant further time it has been held that this power implies within it a power to grant an extension even after the expiry of the time originally granted. This view was taken by their Lordships of the Privy Council in *Badri Narain v. Sheo Koer* (1). It is true that this ruling was given under the Code of Civil Procedure of 1882, but the principle is the same. In our view, therefore, it was open to the insolvency court to extend the time

(1) (1889) I.L.R., 17 Cal., 512.

for applying for a discharge even after the expiry of the period originally fixed.

If the annulment of the adjudication be not automatic, then the court must always have power to extend time even after the expiry of the original period. In this Court two learned Judges have held in *Maharaj Hari Ram v. Sri Krishan Ram* (1) that there is no automatic annulment of an adjudication. If this view be correct then the power of the court to extend time after the expiry of the original period does exist.

The view which we are taking is amply supported by authorities of other courts, namely *Abraham v. Sookias* (2), *Gopal Ram v. Magni Ram* (3) and *Palani Goundan v. Official Receiver of Coimbatore* (4). We see no reason to go against so many authorities with which we, with all respect, agree. The result is that the application fails on the merits and is hereby dismissed with costs.

MATRIMONIAL JURISDICTION

Before Mr. Justice Young

GOODAL (PETITIONER) *v.* GOODAL (RESPONDENT) *

Divorce Act (IV of 1869), section 7—Age of consent—Marriage of girl of 13—Validity—Divorce Act (IV of 1869), sections 3(5), 45, 49—“Minor”—Age of majority—Petition for divorce by girl of 19—Whether next friend necessary.

A marriage among Anglo-Indians domiciled in India took place in October, 1926, the bride being just 13 years old. On the question whether the girl was capable of giving a valid consent to her marriage it was held that for a Christian marriage in India the age of consent at the date of this marriage would be 12 for the girl, that being the then state of the law in England. There was nothing either in the Indian Divorce Act or the Christian Marriage Act as regards the age of consent; and under section 7 of the Indian Divorce Act the Indian High Courts had to act, subject to the

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* Matrimonial Suit No. 8 of 1932.

(1) (1926) I.L.R., 49 All., 201.

(2) (1923) I.L.R., 51 Cal., 337.

(3) (1927) I.L.R., 7 Pat., 375.

(4) (1929) I.L.R., 53 Mad., 288.