

The testator had a mere right of action in respect of the house, which he was seeking to enforce. The value of such a right it is, of course, impossible to determine. That right he devised to the applicant.

1896

 IN THE
 GOODS OF
 ABDUL
 AZIZ.

As this is a case unprovided for under the Act, we may fairly take the value of the property for the purposes of the present application as not exceeding Rs. 1,000.

C. B. G.

Before Mr. Justice Sale.

IN THE GOODS OF MARY HEMMING (DECEASED.)

1896

Letters of Administration—Succession Act (X of 1865), section 269—Powers under.

 March 31.

In an application for letters of administration *debonis non* :—

Held, it is not necessary to ask in the petition for leave to dispose of the property in any particular way. Section 269 of the Succession Act gives the Administrator full powers in this respect.

THIS was an application to the Court in its testamentary and intestate jurisdiction under the Succession Act for letters of administration *debonis non* to the estate of the deceased. In the prayer of the petition the petitioner inserted the following additional words, asking for liberty to dispose of the house which formed the estate, in respect of which grant of letters of administration was sought to be obtained :—

“With liberty to your petitioner to sell and dispose of the said house and premises No. 7, Bow Bazar Lane, aforesaid, at such price and upon such terms as to your petitioner shall seem fit.”

SALE, J.—This is an application under the Succession Act. The petitioner prays for letters of administration *debonis non*, with liberty to dispose of the house in respect of which the grant of letters of administration is sought to be obtained. I am prepared to grant letters of administration to the applicant. On such grant being made the property will vest in the applicant, and he will have power to dispose of it “in such manner as he may think fit.” This is a power given expressly by section 269 of the Succession Act. The fullest power of disposal being thus given by the Act itself, nothing further is required. Why, then, should the

1896
 IN THE
 GOODS OF
 MARY
 HEMMING.

petitioner ask for the Court's permission to do what he will under the law have full power to do? Indeed, the Act does not give the Court jurisdiction, when granting probate or letters of administration under its provisions, to include in such grant authority to dispose of property in respect of which the grant is made.

Attorney for applicant: Babu *Upurbocoomar Gangooly*.

C. E. G.

*Before Sir W. Comer Petheram, Kt., Chief Justice, Mr. Justice Pigot,
 and Mr. Justice Macpherson.*

1896
 March 4.

IN THE GOODS OF INDRA CHANDRA SINGH (DECEASED.)
 SARASWATI DASSI v. THE ADMINISTRATOR-
 GENERAL OF BENGAL. *

Appeal—Letters Patent, High Court, clause 15—Will—Executor—Raising money by mortgage—Permissive order of Court—Probate and Administration Act (V of 1881).

No one but an executor or administrator has power to apply to the Court under section 90 of the Probate and Administration Act (V of 1881).

Where a testator directed his executor to manage the whole of his estate through the Court of Wards:

Held, that there was no restriction on the executor's power of sale, and that the provisions of section 90 of the Probate and Administration Act did not apply to his case.

Held, also, that an order on an application under section 90 of the Probate and Administration Act, at the instance of a beneficiary, where there was no restriction on the power of the executor to sell, was without jurisdiction, and appealable under section 15 of the Letters Patent.

Hurriah Chunder Chowdhry v. Kali Sundari Debi (1) applied.

INDRA CHANDRA SINGH died on the 14th May 1894, having made his last Will on the 13th May 1894, of which he appointed the Administrator-General the executor. He left a widow Srimati Mrinalini Dassi and a daughter, Srimati Saraswati Dassi, by a pre-deceased wife. Both the widow and the daughter were minors. The executor obtained probate of the Will on the 30th June 1894. The testator directed his executor to have the whole of his estate managed by the Court of Wards. The income of the testator's estate was about 2 lakhs per annum, less expenses for repairs, &c.

* Original Civil Appeal No. 42 of 1895.

(1) I. L. R., 9 Calc., at pp. 493, 494.