

1926.
 BEAIRO
 NATH ROY
 v.
 SHANKE
 PAHAN.

be invalid on account of any act done by the zarpeshgi-dar to the detriment of the plaintiff. I am of opinion that the decision of the learned Subordinate Judge is correct and this appeal must therefore be dismissed with costs.

ADAMI, J.—I agree.

Appeal dismissed.

APPELLATE CIVIL.

Before Das and Ross, JJ.

KAYASTHA TRADING AND BANKING CORPORATION,
 GORAKHPUR

v.

JAI KARAN LAL.*

1926.
 July, 2.

Companies Act, 1913 (Act VII of 1913), sections 199, 200 and 201—Order in winding up proceedings—Transfer to court in another province for execution, whether should be to High Court or District Court.

The High Court at Allahabad having made an order in certain liquidation proceedings pending before it, transferred the order for execution to the court of the District Judge at Gaya, in the Province of Bihar and Orissa. The District Judge of Gaya held that he was not competent to deal with the case and struck off the execution.

Section 199, Companies Act, provides: "All orders made by a Court under the Act may be enforced in the same manner in which decrees of such court made in any suit pending therein may be enforced." It is further provided by section 200 of that Act that "Any order made by a Court for or in the course of a winding-up of a company shall be enforced in any place in British India other than that in which such court is situate by the court which would have had jurisdiction in respect of such company if the registered office of the Company had been situated at such place". Section 201 requires the last mentioned court to take the requisite steps in the matter.

Held, that the court described in sections 200 and 201 is the High Court and not the District Court.

*Appeal from Original Order nos. 8 and 9 of 1926, from an order of F. F. Madan, Esq., I.C.S., District Judge of Gaya, dated the 7th November 1925:

The facts of the case material to this report are stated in the judgment of Ross, J.

Sambhu Saran and *Rajeshwari Prasad*, for the appellants.

Kailash Pati, for the respondent.

Ross, J.—These appeals relate to the execution of a decree by the High Court of Allahabad in certain liquidation proceedings. These decrees were transferred for execution by the Allahabad High Court to the District Judge of Gaya. He held that under section 200 read with section 3 of the Indian Companies Act, 1913, he was not competent to deal with the case and he allowed the objections and struck off the execution.

The contention on behalf of the decree-holder in this court is that, under section 199,

“ All orders made by a Court under the Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced ”

and, consequently, this section lets in sections 38, 39 and 40 of the Code of Civil Procedure; and, as a decree in a suit by the Allahabad High Court can be transferred for execution to the District Court at Gaya, the same procedure is correctly followed in these liquidation proceedings. Now section 199 is the general section; but the section particularly dealing with the question of enforcement of an order outside the jurisdiction is section 200 and that section provides that,

“ Any order made by a Court for or in the course of the winding-up of a Company shall be enforced in any place in British India other than that in which such Court is situate, by the Court that would have had jurisdiction in respect of such Company if the registered office of the Company had been situate at such place; ”

and section 201 requires the last mentioned court to take the requisite steps in the matter. Now the court described in these two sections is not the court of the District Judge as he has rightly pointed out, but it would be this Court. Section 199 and section 200 must be read so as to be consistent with each other. If the interpretation placed upon section 199 by the

1926.

KAYASTHA
TRADING AND
BANKING
CORPORATION,
GORAKHPUR
v.
JAI KARAN
LAL.

ROSS, J.

1925.

KATASHTA
TRADING AND
BANKING
CORPORATION,
GORAKHPUR
V.
JAI KARAN
LAL.
ROSS, J.

learned Advocate for the appellants is correct, then section 200 would be swept away altogether. It seems to me therefore that the learned District Judge is right.

It is then contended that as the case is now before this Court, it may be sent back in order that the District Judge may enforce the decree. But this is to ignore the procedure laid down by the Companies Act which must be strictly followed.

Finally it was argued that the third proviso to section 3 validates these proceedings. But all that that proviso allows is that nothing in the section shall invalidate a proceeding by reason of its being taken in a wrong court. But where the objection is taken at the very beginning, the objection must be decided according to law; and the objection has been correctly decided in this case, and there is nothing to validate.

These appeals are dismissed. Appeal no. 8 without costs and Appeal no. 9 with costs.

DAS, J.—I agree.

Appeal dismissed.

APPELLATE CIVIL.

Before Das and Ross, JJ.

RAJA KIRTYA NAND SINHA BAHADUR

v.

RAM LAL JUBE.*

1926.

July, 5.

Bengal Tenancy Act, 1885 (Bengal Act VIII of 1885), section 22(2)—Purchase of occupancy right by co-sharer landlord—settlement with tenant—partition—part of holding allotted to purchaser and remainder to the other co-sharer—status of purchaser in share allotted to other co-sharer.

Under section 22(2), Bengal Tenancy Act, 1885, "If the occupancy right in land is transferred to a person jointly

*Appeal from Appellate Decree no. 566 of 1924, from a decision of H. R. Meredith Esq., I.C.S., District Judge of Purnea, dated the 13th February 1924, confirming a decision of Babu Gajadhar Prashad, Munsif of Purnea, dated the 15th January 1923.