

LETTERS PATENT APPEAL.

Before Sir Shadi Lal Chief Justice, and Mr. Justice
LeRossignol.

1926

March 19.

PREM SUKH, Appellant

versus

Mst. PARBATI, Respondent.

Letters Patent Appeal No. 46 of 1925.

*Probate and Administration Act, V of 1881, section 50—
Annulment of order for the grant of Letters of Administra-
tion conditional upon the grantee furnishing security—
Inherent power of Court to withdraw the order.*

Held, that where a Court has passed an order for the grant of Letters of Administration conditional upon the grantee furnishing security, the Court has power to withdraw the order if security is not furnished as directed.

Surendra Nath Pramanik v. Amrita Lal Pal Chaudhri (1), followed.

Section 50 of the Probate and Administration Act, 1881, is exhaustive, and not merely illustrative; but a Court has inherent power to enforce obedience to its direction.

Appeal under clause 10 of the Letters Patent from the judgment of Mr. Justice Martineau, dated the 20th January 1925.

SHAMAIR CHAND, for Appellant.

PARKASH CHANDRA, for Respondent.

The judgment of the Court was delivered by—

SIR SHADI LAL, C. J.—On the 29th of March, 1923, the District Judge of Ambala made an order for the grant of letters of administration *cum testamento annexo* to Mussammat Parbati in respect of the estate of her deceased husband and at the same time directed her to give a bond with one surety engaging for the collection, getting in and administering of the estate.

It appears that no time was fixed within which the security was to be furnished, and though Mussammat Parbati produced, in March, 1924, a security bond, it was not accepted because she failed to appear on the date fixed for an enquiry in regard to the surety. Consequently, the District Judge passed an order revoking the grant of the letters of administration.

1926
PREM SURH
v.
MST. PARBATI.

On appeal, the order of the District Judge has been set aside by Mr. Justice Martineau, who holds that the grant can be revoked only under section 50 of the Probate and Administration Act, and that failure to furnish security does not constitute a 'just cause' within the meaning of the section. Now, while we agree with the learned Judge that section 50 of the Act is exhaustive, and is not merely illustrative, we are of opinion that the Court has inherent power to enforce obedience to its direction. It is quite clear that letters of administration cannot be granted unless the administrator furnishes a security bond in compliance with the direction of the Court; and indeed, in this case the letters of administration were never committed to Mussammat Parbati and could not be committed without her furnishing security as ordered by the Court. There can, therefore, be no question of the revocation of the letters of administration, and we consider that when the condition, on the fulfilment of which alone the grant can be made, is not satisfied, the Court has inherent power to withdraw the order for grant so as to prevent an abuse of its process, *vide Surendra Nath Pramanik v. Amrita Lal Pal Chaudhri* (1).

While we hold that the District Judge was competent to withdraw the order for the grant of letters,

1926
PREM SUKH
v.
MST. PARBATI.

we consider that, as Mussammat Parbati is the sole legatee under the will of her husband, she should be given another opportunity to furnish security. We accordingly direct her to furnish, within six months, a security bond with one surety for the due administration of the estate. In the event of her failure to comply with this order, the District Judge is authorized to withdraw the order for the grant of the letters of administration to her. The appeal is accepted *pro tanto*, and the parties are directed to bear their own costs throughout.

C. H. O.

Appeal accepted in part.
