

cases, yet I do not see that the Court has power to question the legality of the award in these proceedings for execution of it. I agree with what was said in *Ahmad Yar v. Co-operative Credit Society* (1), that the Court has no power to do anything except to execute the award.

This appeal will, therefore, be dismissed with costs.

APPELLATE CIVIL.

Before Mr. Justice Mosely.

DAW OHN BWINT AND OTHERS

v.

DAW SAW MAY AND ANOTHER.*

Succession certificate—Joint certificate to several persons—Rival claimants—Succession Act, s. 373.

There is nothing illegal in issuing a joint succession certificate to more persons than one. There may be inconvenience and impropriety in issuing it to rival claimants, but s. 373 (4) of the Succession Act does not debar the issue of joint certificates.

Lonachand v. Uttamchand, I.L.R. 15 Bom. 684; *Madan Mohan v. Ramdixi* I.L.R. 5 All. 195; *Ram Raj v. Brij Nath*, I.L.R. 35 All. 470, referred to.

Dangali for the appellants.

Eumoose for the respondents.

MOSELY, J.—The ground of limitation has been abandoned, and the only remaining question to be decided is whether a joint succession certificate to several claimants could have been given, as was done in this case, to the decree-holder respondents.

Section 373, sub-section (4) of the Succession Act says :

“When there are more applicants than one for a certificate, and it appears to the Judge that more than one of such applicants

(1) A.I.R. (1926) Lah. 547.

* Civil Second Appeal No. 314 of 1936 from the judgment of the District Court of Pyawôn in Civil Misc. Appeal No. 22 of 1936.

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are interested in the estate of the deceased, the Judge may, in deciding to whom the certificate is to be granted, have regard to the extent of interest and the fitness in other respects of the applicants."

It would not seem that the Act contemplated the issue of joint certificates, but I do not think that it can be said that if such certificates were issued their issue would be illegal under the wording of this section. There are rulings which say that joint certificates should not be issued, but these rulings relate to cases where the person to whom the certificates were issued jointly were rival claimants to the estate in question.

In *Madan Mohan v. Ramdial and another* (1) it was said that the grant of a joint certificate to two or more persons is not only fraught with obvious inconvenience, but is opposed to the spirit and policy of the Act, which was specifically directed to providing greater security for persons paying and to facilitating the collection of the debts by removing all doubts as to the legal title to demand the same. It was said that the issue of joint certificates would ordinarily defeat instead of subserving both these objects. No doubt, the main inconvenience would have been the danger of rival claimants giving a discharge and accepting a smaller sum which they hoped to be able to retain. *Lonachand Gangaram Marwadi v. Uttamchand Gangaram Marwadi* (2). On the other hand, it was held in *Ram Raj v. Brij Nath and others* (3) that though the order granting a certificate to more persons than one might be inconvenient, yet there is nothing illegal in it. I agree with the principle laid down there, and dismiss this appeal with costs.

(1) (1882) I.L.R. 5 All. 195.

(2) (1891) I.L.R. 15 Bom. 684.

(3) (1913) I.L.R. 35 All. 470.