

## APPELLATE CIVIL.

*Before Jai Lal J.*

1933  
 Nov. 6.

SRI GANESH COMPANY, LIMITED, MUKTSAR  
 (IN LIQUIDATION) Appellant

*versus*

JIWAN RAM-GANGA SAHAI AND OTHERS,  
 Respondents.

Civil Appeal No. 811 of 1932.

*Indian Companies Act, VII of 1913, sections 3, 186, 215 :  
 Company in liquidation — Shareholder — resident in Native  
 State—Jurisdiction of Court in British India—to order him  
 to pay calls on his shares.*

The liquidator of a company registered under the Indian Companies Act, which had gone into voluntary liquidation, applied to the District Judge, Ferozepore, within whose jurisdiction the registered office of the company was situate, under Sections 186 and 215 of the Companies Act, for an order directing the respondents to pay certain amounts, representing the balance of the calls on shares alleged to have been taken by the respondents. The respondents objected to the jurisdiction of the District Judge on the ground that they were residents of a Native State, had no property in British India and did not carry on any business within the jurisdiction of the Court.

*Held*, that the District Judge had jurisdiction to entertain the application inasmuch as the respondents had agreed to become members of the company, which had its registered office in British India within his jurisdiction.

*Gurdyal Singh v. Raja of Faridkot* (1), distinguished.

*Miscellaneous appeal from the order of Mr. I. M. Lall, District Judge, Ferozepore, dated 14th March, 1932, holding that the Court had no jurisdiction to entertain the application.*

CHANDRA GUPTA, for Fakir Chand, for Appellant.

*Nemo*, for Respondents.

JAI LAL J.—A company called Sri Ganesh Trading Company, Limited of Muktsar, duly registered under the Indian Companies Act, went into voluntary liquidation and the appellant *Babu Swami Dayal* was appointed its liquidator. He made an application to the District Judge of Ferozepore, within whose jurisdiction the registered office of the Company was situated, under sections 186 and 215 of the Indian Companies Act, for an order directing the respondents to pay certain amounts to the liquidator. The amounts represented the balance of the calls on shares alleged to have been taken by the respondents in the Company. The respondents appeared in the Court of the District Judge in pursuance of notices issued to them and objected to the jurisdiction of the learned Judge to pass the order for payment, on the ground that they were residents of a Native State, had no property in British India and did not carry on any business within the jurisdiction of the Court. The District Judge has given effect to these objections and has dismissed the application of the liquidator who consequently has presented an appeal to this Court.

After hearing Mr. Chandra Gupta, counsel for the liquidator, I am of opinion that the order of the learned District Judge cannot be sustained. As I have already stated, the registered office of the Company was situated within the jurisdiction of the District Judge and by virtue of section 3 of the Indian Companies Act he is the Judge who has jurisdiction to pass orders in liquidation proceedings. There is no doubt that he has jurisdiction to pass order for payment of any amount that may be due from the contributories to the Company on account of the arrears in the calls under section 186 of the Indian

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Companies Act, and if there is any dispute between the parties he can adjudicate on it under section 215.

The question then is whether there is any provision of law which exempts foreigners from the jurisdiction of the Judge. No express authority is available on the subject. The learned District Judge relied upon *Gurdyal Singh v. Raja of Faridkot* (1), a judgment of their Lordships of the Privy Council. The facts of that case, however, are quite distinguishable. The suit in that case was based on an *ex parte* judgment of a foreign Court, and the question was whether such a suit under the circumstances mentioned in the judgment of their Lordships was sustainable in British Indian Courts. The facts of the present case are quite different. Here, though the respondents reside outside British India, they had agreed to become members of a Company which had its registered office in British India and within the jurisdiction of the District Judge, and are therefore amenable to his jurisdiction. Applying the analogy of the provisions of the Civil Procedure Code relating to jurisdiction of the Civil Courts to entertain suits it would be perfectly correct to say that the cause of action arose within the jurisdiction of the District Judge, who would, therefore, have jurisdiction to entertain a suit, if a suit had been instituted, for a decree directing the respondents to pay the amount now claimed by the liquidator. The Civil Procedure Code ordinarily makes no exemption in the case of foreigners provided the conditions laid down in section 20 have been satisfied. We are not at this stage concerned whether it would be possible to enforce the order of the District Judge. That is a matter

which will have to be considered hereafter. At present the only question that has arisen is, whether the District Judge could pass an order against the respondents for the payment of the amount claimed by the liquidator. I feel no doubt that he has jurisdiction and consequently I accept this appeal, set aside the order of the District Judge and direct him to proceed with the application of the liquidator on its merits. The costs of this appeal shall abide the result.

A. N. C.

*Appeal accepted.*

**REVISIONAL CIVIL.**

*Before Bhide J.*

MUHAMMAD HASHAM KHAN (DEFENDANT)

Petitioner

*versus*

MUHAMMAD JAN KHAN (PLAINTIFF)

Respondent.

Civil Revision No. 191 of 1933.

*Civil Procedure Code, Act V of 1908, Sections 96, 115: Revision—competency of—on point of construction of a power-of-attorney—Indian Oaths Act, X of 1873—Decree passed in consequence of an agreement to be bound by defendant's statement on oath—whether a consent decree.*

A suit on behalf of a minor under the guardianship of the Court of Wards was conducted by one *F. B.* who was granted a power-of-attorney by the Deputy Commissioner for the purpose. During the pendency of the suit *F. B.* agreed to be bound by the statement of the defendant on oath on the point at issue. The oath was taken and the suit was dismissed. On appeal the Senior Subordinate Judge upheld the contention of the plaintiff that the power-of-attorney given to *F. B.* did not authorise him to bind the minor by the oath of the defendant and remanded the suit for retrial. The defendant came up to

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