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together, the more special operating as a partial exception to the other—*Ex parte Attwater*; *In re Turner*[1]; *Dowling* v. *Betjemann*[2]; *Fenn* v. *Bittleston* [3]; and *James* v. *Cochrane* [4].

For these reasons we reverse the order of the Assistant Judge and restore that of the Subordinate Judge, with costs.

Decree reversed.

(1) L. R., 5 Ch. Div., 27.
(2) 2 J. & H., p. 544.
(3) 7 Ex., 152.
(4) 7 Ex, 170, at p. 171, 174.

APPELLATE CIVIL.

Before Mr. Justice West and Mr. Justice Birdwood.

1887. *June* 28.

GOVIND LAKSHMAN JOSHI AND ANOTHER, (ORIGINAL DECREE-HOLDERS), APPELLANTS, *v.* RA'MKRISHNA' HARI JOSHI, (ORIGINAL JUDGMENT-DEBTOR), RESPONDENT.*

Vritti—Jotishipaná vritti—Liability to attachment in execution of a decree—Civil Procedure Code (Act XIV of 1882), Sec. 266 (f)—Nature of vrittis under Hindu law.

The *jotishi vritti*, being a right to receive certain emoluments as a reward for personal service, is not liable to attachment under section 266 (*f*) of the Code of Civil Procedure (Act XIV of 1882).

Ganesh Rámchandra Dáte v. *Shankar Rámchandra*(1) followed.

Semble—Under the Hindu law, *vrittis* are to be regarded as generally *extra commercium*.

SECOND appeal from the order of E. T. Candy, District Judge of Poona, in Appeal No. 122 of 1886.

In execution of a money decree, the appellants sought to attach and sell the judgment-debtor's future interest in the *jotishipaná vritti*. The judgment-debtor objected, on the ground that the *vritti* was not liable to attachment and sale, under section 266 of the Code of Civil Procedure (Act XIV of 1882).

The Subordinate Judge overruled this objection, and ordered execution to issue.

* Second Appeal, No. 624 of 1886.

(1) I. L. R., 10 Bom., 395.

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In appeal, the District Judge, following the ruling in *Ganesh Rámchandra Dáte* v. *Shankar Rámchandra*[1], reversed the order of the Subordinate Judge, and directed the attachment to be raised.

Against this decision the decree-holders preferred a second appeal to the High Court.

Mahádev Bháskar Chaubal for the appellant :—A *jotishi vritti* is alienable. In *Manchárám* v. *Pránshankar*[2] it was held that a religious office could be alienated within the family. Again, in *Sadáshiv Lalit* v. *Jayantibái*[3], a decree expressly directed a *vritti* to be sold, and the decree was upheld. In Steele's work on Hindu Law and Customs at page 84 it is stated that the duties of a religious office can be performed by a deputy. In the present case the holder of the *vritti* generally entrusts his work to an agent or *gumástá*. If a *vritti* is alienable, then there is nothing, in law, to protect it from attachment in execution of a decree. In this case the judgment-debtor's interest in the *vritti* has been twice before attached and sold. It is now too late to contend that the *vritti* is not liable to attachment.

Dáji Abáji Khare, for the respondent, was not called upon.

WEST, J. :—The appellants obtained a money decree against Rámkrishna, and in execution attached his *jotishi vritti* on three occasions. In 1880 the profits for the year seem to have been appropriated towards the discharge of the debt. In 1883 the sons of Rámkrishna intervened, and procured the release of three-eighths of the profits from attachment. Then in 1884 the plaintiffs attached the whole right of Rámkrishna as *joshi*, treating it as a thing in commerce and subject to sale under the execution against him. The District Judge has held it was not subject to sale, and no case exactly opposed to this decision has been cited. Probably the most correct view of *vrittis* under the Hindu law would be to regard them as generally *extra commercium*, but it does not seem necessary to resort to that principle. Section 266 (*f*) of the Code of Civil Procedure has been construed by the Courts as meaning that the right to take certain emoluments

(1) I. L. R., 10 Bom., 395. (2) I. L. R., 6 Bom., 298.
(3) I. L. R., 8 Bom., 185.

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as the reward for personal service is not liable to attachment—*Ganesh Rámchandra Dáte* v. *Shankar Rámchandra*[1]. The right of the *vyahára joshi* is of this character[2]; and even though he may have authority in some cases to name a *gumástá*, or substitute, that does not imply that he can be forced to do so, still less that in consequence his rights are alienable by a forced sale under a decree. We, therefore, confirm the decree of the District Court with costs.

Decree confirmed.

(1) I. L. R., 10 Bom., 395. (2) Steele's L. C., 83, 84.

APPELLATE CIVIL.

Before Mr. Justice West and Mr. Justice Birdwood.

1887. *June* 28.

PEDRO ANTONIO DE PENHA, (ORIGINAL APPLICANT), APPELLANT, *v.* JA'LBHOY ARDESHIR SET, (ORIGINAL OPPONENT), RESPONDENT.*

Sale—Proclamation—Civil Procedure Code (Act XIV of 1882), *Secs.* 274 *and* 289—*Property broken up into lots—Separate proclamations when necessary.*

Where property intended to be sold in execution of a decree is divided into a number of small lots, as a means of obtaining a better aggregate price, the law does not require that a separate proclamation of sale should be made on each lot into which the property is so divided.

A mere breaking up of a property into lots does not necessarily make it several properties for the purposes of a proclamation of attachment or sale.

Where estates, though embraced in the same process, are really at such a distance that there is no moral certainty of communication to persons on, or interested in, the one of what is publicly done on the other, there should, no doubt, be a separate proclamation on each, in order that full intimation may be given of what is to be done.

APPEAL from the order of Ráv Bahádur Chunilál Maneklál, First Class Subordinate Judge of Thána, in Application No. 85 of 1886.

One Jálbhoy Ardeshir Set obtained a decree to enforce his mortgage lien by sale of the property mortgaged. The property consisted of land measuring 10 or 11 acres in area. At the request of the judgment-debtor the property was put up to sale

* Appeal, No. 9 of 1887, from order.