

to take the money out of Court did not justify the Subordinate Court in treating the money as the defendant's and in ordering it to be paid to another judgment-creditor of the defendant without his having in any way expressed his assent to the money being so treated. The money should have remained in Court, and been paid into the treasury as a civil deposit. Order reversed, with costs.

Decree reversed.

APPELLATE CIVIL.

Before Sir Charles Sargent, Kt., Chief Justice, and Mr. Justice Candy.

LONACHAND GANGA'RA'M MA'RWA'DI, (ORIGINAL APPLICANT), APPELLANT, *v.* UTTAMCHAND GANGA'RA'M MA'RWA'DI, (ORIGINAL OPPONENT), RESPONDENT.*

Succession Certificate Act VII of 1889—Grant of a joint certificate—Object of the Act.

Under the provisions of the Succession Certificate Act (VII of 1889), a joint certificate to recover debts cannot be granted.

Madan Mohan v. Ramdial (1) and *Jamnabai v. Hastubai* (2) referred to.

THIS was an appeal against an order passed by M. B. Baker, District Judge of Násik.

Application for a certificate to collect debts under Act VII of 1889.

One Lonachand Gangarám Márwádi presented an application to the District Court at Násik for a certificate under the Succession Certificate Act (VII of 1889) to recover the debts due to his deceased brother Chotirám Gangarám.

Uttamchand Gangarám, another brother of the deceased Chotirám Gangarám, opposed the application of Lonachand on the grounds (*inter alia*) that the bonds regarding which the applicant asked for a certificate were in his (opponent's) possession, and that, therefore, he alone was entitled to the certificate, and not the applicant; that, in any case, a certificate should not be given to the applicant alone, and that as both the applicant

* Appeal No. 55 of 1890.

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

(2) I. L. R., 11 Bom., 179.

and the opponent were the brothers of the deceased Chot joint certificate should be issued to them.

The District Judge passed an order issuing a certificate names of both the applicant Lonachand and the opponent U chand.

The applicant Lonachand appealed to the High Court.

Naráyan Ganesh Chandivárkar for the appellant :—It ha held that a joint certificate under Act XXVII of 1860 cou be granted—*Madan Mohan v. Rámdiál* ⁽¹⁾; *Jamnábái v. H bái* ⁽²⁾. The provisions of Act VII of 1889 are similar to the visions of that Act. The District Court ought to have determ which applicant had a better right to the certificate.

There was no appearance on behalf of the respondent.

SARGENT, C. J. :—This Court, following *Madán Mohan v. Ram diál* ⁽³⁾, has expressed the opinion that to grant a joint certificat is to frustrate the object of the Act—*Jamnábái v. Hastubái* ⁽⁴⁾.

We must, therefore, reverse the order of the District Judge and send the case back for a fresh decision on the rival claims for the certificate. Costs to abide the result.

Order reversed.

⁽¹⁾ I. L. R., 5 All., 195.

⁽³⁾ I. L. R., 5 All., 195.

⁽²⁾ I. L. R., 11 Bom., 179.

⁽⁴⁾ I. L. R., 11 Bom., 179.

APPELLATE CIVIL.

Before Sir Charles Sargent, Kt., Chief Justice, and Mr. Justice Candy.

AMIRUDIN, PLAINTIFF, *v.* MAHAMAD JAMA'L, DEFENDANT.*

Specific Relief Act (I of 1877), Sec. 9—The Mámlatdárs' Courts' Act (Bombay Act III of 1876)—Suit by a trespasser to recover possession.

18
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A trespasser who has been dispossessed is not entitled to bring a suit under section 9 of the Specific Relief Act I of 1879 or under Bombay Act III of 1876 to recover possession.