

## APPELLATE CIVIL.

*Before Mr. Justice Madgavkar and Mr. Justice Barlee.*

CHANDULAL MADHAVLAL, LATE NAZIR OF THE PETLAD NYAYADHISHI COURT (BARODA STATE), THE RECEIVER APPOINTED BY THE BARODA PRANT NYAYADHISHI (DISTRICT COURT OF BARODA) AND OTHERS (ORIGINAL PLAINTIFFS). APPLICANTS *v.* MANEKLAL LALLURAM (ORIGINAL DEFENDANT), OPPONENT.\*

1930  
September 2

*Receiver—Receiver appointed by Baroda Court—Receiver can file suit in British Court.*

A receiver appointed by a Court of the Baroda State can be recognized as a proper party for the purpose of filing suits in a British Court.

*Ismailji v. Ismail Abdul*,<sup>(1)</sup> referred to.

APPLICATION against the order passed by L. C. Sheth, Subordinate Judge at Borsad.

A suit for the dissolution of a partnership firm carrying on business in the town of Agas in the Baroda State, was filed in the District Court of Baroda. The District Court appointed petitioner No. 1, who was the Nazir of the Subordinate Judge's Court at Petlad in the Baroda territory, a Receiver of the partnership assets.

Petitioner No. 1 filed several suits in the Petlad Court and also a number of suits in the British Court at Borsad to recover sums of money due to the partnership firm. The opponent-defendant in one of such suits raised the objection that petitioner No. 1 as a receiver appointed by a foreign Court could not file the suit in the British Court. Upon this objection being raised an application for the addition of the names of the partners, petitioners Nos. 2 and 3, as plaintiffs, was made.

The trial Court held that the receiver appointed by the District Court of Baroda could not file a suit on behalf of a firm which carried on business outside British India and as at the date when petitioners Nos. 2 and 3

\*Civil Revision Application No. 206 of 1929.

<sup>(1)</sup> (1921) 45 Bom. 1228 at p. 1231.

1930  
 CHANDULAL  
 MADHAVLAL  
 v.  
 MANEKLAL  
 LALLURAM

were brought on record, any suit by them had become barred, the suit was time-barred by reason of section 22 of the Indian Limitation Act. The suit was, therefore, dismissed.

The Receiver and the other plaintiffs applied to the High Court.

*R. W. Desai*, for the petitioners.

No appearance for the opponent.

MADGAVKAR, J. :—The question in these applications is, how far the receiver appointed by the Baroda Courts can be recognised for the purpose of filing suits in the British Courts. The Baroda Court appointed a receiver. He filed suits in the British Courts. Objection was then taken, which was apparently allowed, and the partners were brought on the record. Subsequently, objection was taken as to limitation and contrary to the opinion implied, though not expressed, by his predecessor, the learned Subordinate Judge held that the suits were barred by limitation.

The plaintiff has applied in revision

Our attention has been invited to-day to appeals on similar orders in the District Court of Nadiad, in which the First Class Subordinate Judge with appellate powers has allowed the appeals and we are asked to follow the reasoning in the judgment in Appeal No. 40 of 1929 in that Court decided on June 28, 1930.

That judgment apart, on general principles, as was observed by Macleod C. J. in *Ismailji v. Ismail Abdul*,<sup>(1)</sup> “ a Court can appoint a Receiver of property outside its jurisdiction and even in foreign territory,” and “ except perhaps in choses in action a trustee in a foreign bankruptcy Court is usually recognised in England,” cf. Dicey’s Conflict of Laws, 4th Edition, at page 481.

(1) (1921) 45 Bom. 1228 at p. 1231.

Westlake in the Treatise of Private and International Law, 7th Edition, p. 175, observes:—

“Curators, syndics, or others who under the law of a country where a debtor is domiciled, or, if the debtor has himself been a party to the proceedings, under the law of the country where he is resident, are entitled to administer his property on behalf of his creditors, are entitled as such to his chattels personal and choses in action in England.”

Baroda is a State, the decrees of which are recognised and can be executed in the British Courts without the filing of fresh suits and *vice versa*. If the principle of reciprocity applies to decrees, there appears no obvious reason why it should not apply to a person such as a Receiver entitled to sue in the case. Estates often comprise properties both in British territory and in Baroda and it would be a matter of convenience if receivers were recognised. Accordingly, on general principles, as well as on the particular facts of this case, we are of opinion that the receivers appointed by the Baroda Courts can, subject to objection by the opposite party, be recognised by the British Courts, and it cannot, therefore, be said that the receiver appointed by the Baroda Court had no right to sue; on the contrary he represented the estate of the partnership, so that even if *pro majore cautela* the trial Court thought it necessary to add the partners, the suit, as originally filed, was not barred by limitation, and did not become so barred by reason of the names of the partners being brought on the record as plaintiffs.

We allow the application, make the rule absolute, and set aside the order of the trial Court and direct that it should take the suit back on its file for disposal on the merits.

No order as to costs.

*Rule made absolute.*

J. G. R.

1930

CHANDULAL  
MADHAVLAL

v.

MANEKLAL  
LALLURAM

Madgarakar J.