

1901
AUG. 6.
APPELLATE
CIVIL.

final, if not impugned in the way provided by the law for doing so, after the lapse of a certain time, tenants of Ward's estates should have the means of upsetting them, by bringing suits to cancel and modify the certificates issued against them for such rents.

We are, therefore, of opinion that this suit is not maintainable. We accordingly decree this appeal with costs.

Appeal allowed.

28 C. 680.

Before Mr. Justice Rampini and Mr. Justice Gupta.

PURAN MAL AND OTHERS (*Decree-holders*) v. JANKI PERSHAD SINGH AND ANOTHER (*Judgment-debtors*)*. [22nd July 1901.]

Civil Procedure Code (XIV of 1882), s. 622—Revision, High Court's power of without application—Property, management of by Court.

Under the terms of s. 622, Civil Procedure Code, the High Court can deal with a case under that section without there being any application by any of the parties.

Golam Mahammad v. Saroda Mohan Maitra (1) approved of.

There is no law or procedure under which a Court can on the mere application of the parties interested take over the management of properties belonging to an estate and pass such orders as would place them entirely beyond the reach of the judgment-creditors of the estate.

TWO ladies, Mussummat Chatar Koer, wife of Janki Pershad Singh and Mussumat Surjdeo Koer, wife of Ram Rachhiya Singh, residents of Pandovi, Zilla Gya, by their joint petition, dated the 4th of January, 1900, applied to the District Judge of Gya [681] for the appointment of a guardian and manager of the properties of their respective minor sons, alleging that "the said Janki Pershad and the said Ram Rachhiya were totally unfit to manage their own properties, and much less to look after the interest of the said minors." The District Judge, after considering the matter, on the 6th of January passed an order that he did not see how the Guardian and Wards Act could apply when the fathers were living, and accordingly no order under the Guardian and Wards Act was made. Then, on the 8th of January, the said Janki Pershad and the said Ram Rachhiya, who are called the Pandooi Baboos, made an application also praying for the appointment of a manager.

On the 17th the District Judge recorded an order to the effect that the whole estate having come under the management of the Court owing to joint petitions of the owners and the guardians of the minor sharers, the Nazir of the Court was authorized "to raise any sum that might be required to pay off certificates, &c., on the security of the whole estate." The Judge also ordered the issue of *rubokaris* to the Collector and all the subordinate courts to the effect that, whereas the estate has been placed under the control of a joint receiver of this Court and time is required to appoint a proper person to liquidate its affairs, all demands on the estate should be notified to the District Court and all proceedings for sale, etc., stayed until that Court has time to pass final orders in the matter of the receivership. On the 22nd instant the Judge passed another order that nothing further would be done for the major Pandooi Babus, until they

*Appeal from Order No. 91 of 1900, against the order of H. Holmwood, Esq., District Judge of Gya, dated the 22nd of January, 1900.

(1) (1900) 4 C. W. N. 695.

signed a document stating that the estate was to remain under the Court till the minors came of age; if they did not sign such a document within 24 hours the Court would decline to help them in any way, and would protect the minors' safety by other orders. On the same day he appointed Munder Lal, the Nazir of the Court, receiver for three months, or until such further time as permanent arrangements could be made. Thereupon the said Pandooi Babus filed a petition stating that they agreed to the above arrangement. The Judge made an order that this would operate as a complete transfer of the charge of the estate to the receiver or manager, until the minors [682] came of age. Then on the 25th and 31st instant the Judge acknowledged receipt of letters from the Subordinate Judge informing him that further proceedings in the Pandooi estate cases and in execution case No. 148 of 1899 had been stayed, as asked by him.

The appellants had obtained a decree against the respondents, the said Janki Pershad and Ram Rachhiya, and on their application attachment process was issued by the Subordinate Judge in the said execution case No. 148 of 1899, proceedings in which were stayed as above. They appealed to the High Court contending that there was no provision in the law under which the order appointing a receiver and directing the stay of execution could be made, and at the same time made an application under s. 622, Civil Procedure Code, in case it should be held that no appeal lay.

Dr. *Rash Behary Ghosh* and *Babu Dwarka Nath Mitter*, on behalf of the appellants.

Babu Luchminarain Singh, on behalf of the respondents.

The judgment of the High Court (RAMPINI and GUPTA, JJ.) is as follows :—

This is an appeal against certain proceedings of the District Judge of Gya, which have been characterized and very correctly characterized as being of a somewhat unusual nature.

It appears that on the 6th of January, 1900, an application was made by certain ladies, who were members of a joint Hindoo family, for the appointment of a guardian of their minor children. The husbands of these ladies were living. There was no allegation of the children having separate property, and the District Judge, after considering the matter, recorded an order that he did not see how the Guardian and Wards Act could apply, and accordingly no order under the Guardian and Wards Act was made. Subsequently, on the 17th of the same month, the Judge recorded an order to the effect that the whole estate having come under the management of the Court, owing to joint petitions from the owners and the guardians of the minor [683] sharers, the Nazir of the Court was authorized to raise any sum "that might be required to pay off certificates, etc., on the security of the whole estate." The learned Judge also directed that *rubokaris* should issue to the Collector and all the Subordinate Courts. A further order was recorded on the 22nd of the same month to the effect that nothing further would be done for the major Pandooi Babus, until they signed a document that the estate was to remain under the Court, till the minors came of age. On the same date Munder Lal who, we understand, is the Nazir of the Judge's Court, was appointed receiver for three months. On the 23rd of January, 1900 Janki Pershad Singh and Ram Rachhiya Singh filed an application stating that they agree to the estate remaining under the management of the Court. Then, on the order sheet, we find

1901
JULY 22.
—
APPELLATE
CIVIL.
—
28 C. 680.

1904
 JULY 22.
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 APPELLATE
 CIVIL.
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28 C. 680.

further orders of the 25th of January and the 31st of January 1900 acknowledging the receipt of letters from the Soubordinate Judge, 2nd Court, informing the District Judge that certain proceedings in the Pandooi estate cases had been stayed.

The applicants before us are the judgment creditors in the execution case, and the opposite parties are Janki Pershad Singh and Ram Rachhiya Singh, judgment-debtors, under the decree obtained by the applicants against them. The applicants complain that the effect of the Judge's order is to take over the management of the property under no law or procedure whatever, and to put the state of these gentlemen entirely beyond their power, when they wish to execute their decree against them.

The appellants at the same time have made an application to this Court under s. 622, Civil Procedure Code, to the same effect, in case it should be held that no appeal lies; and by an order, dated the 19th April, 1900, it was directed that this application should be brought up for hearing along with the appeal.

We think there can be no doubt that the proceedings of the District Judge are entirely without jurisdiction. The learned pleader for the judgment-debtors, Janki Pershad Singh and Ram Rachhiya Singh, cannot show us any law, or any authority whatever, upon which the proceedings of the District Judge can [684] be justified. The learned Judge seems to have acted entirely upon what he supposed to be his inherent powers, and has taken over the management of the debtor's property in a way which places their property entirely beyond the reach of the judgment-creditors. The only answer which the learned pleader for the respondents can give in this case is that the judgment-creditors have no *locus standi* here. It may be that no regular appeal lies to this Court from the orders of the District Judge for the very good reason that the legislature contemplated no such proceedings as those of the District Judge. But we think that the appellants have a *locus standi* under s. 622, Civil Procedure Code, and, even if they have no such *locus standi* under the terms of the section, we can deal with the case ourselves without there being any application before us. And we are confirmed in this view by the decision in the case of *Golam Mahammad v. Saroda Mohun Maitra* (1).

In these circumstances we feel bound to set aside the whole of the orders of the District Judge. The learned Judge had no authority whatever to take over the property of the judgment-debtors in this case, even with the consent of the parties, and he must release these properties, set aside all orders appointing any person to take the management of them, and leave the judgment-debtors to manage their own affairs as they think best, or may be advised.

We accordingly dismiss the appeal and allow the application under s. 622, with costs.

Appeal dismissed.

(1) (1900) 4 C. W. N. 695.