1869
July 1.

Before Mr. Justice Phear

IN RE KHETTSEY DAS, AN INSOLVENT.

Attachment—Power of Court strictly confined to the Insolvent Act.

ONE Dipchand, a gomasta of the insolvent, claimed to retain against and Insolvent property of the insolvent. An order was obtained that Dipchand should make over the property to the Official Assignee; and the failing to do so, an order for attachment was made absolute against Dipchand for disobedience of the order of the Court. Shortly before the rule was made absolute, Dipchand and one Sambakram obtained a decree against one Rajnarayan, for rupees 1,882.

The present application, on behalf of the Official Assignee was that one-half of the amount so recovered by Dipchand and Sambakram, and lying still unpaid to them in the hands of Rajnarayan, should be attached and brought into Court.

Mr *Ingram* argued, that though there is nothing in the Insolvent Act empowering the Court to grant the application, yet the Court has a general equitable power to make such an order, particularly against one who was in contempt.

PHEAR, J.—I think the Commissioner has no powers, excepting those conferred by the Act. The application must, therefore, be refused.

Before Mr. Justice Macpherson.

1869
March.

ORIENTAL BANK *v.* MANIMADHAB SEN.

Insolvent—Application for Discharge—Bad Faith—Act VIII. of 1859, s. 284.

THE defendant, an insolvent, was brought up on a writ of habeas corpus for the purpose of obtaining his discharge, on the ground that his committal was invalid. In the order bringing him before the Court, a rule *nisi* was contained calling on the Bank to show cause why the defendant should not be discharged under section 281 of Act VIII. of 1859.

Mr. *Marindin* for the Bank.—Section 281 does not apply to insolvents *Kisorimohan Chatterjee* v. *Kanilal Dutt* (1). In re *Surpersad* (2). Moreover this debt was created in bad faith.

Mr. *Jackson*, for the defendant—In *Jaducharan Johanis* v. *Gungadmul Paul* (3), *Phear, J.*, reconsidered former decisions by him, and hascome round to your lordship's view.

MACPHERSON, J.—I am clear that the bad faith must be in respect of the application.

(1) I. J., N. S., 247. (2) 2 Id., 91. (3) Unreported.