

## [18] IN THE GOODS OF L. B. DE MELLO (1792).

*Chambers' Notes, Nov. 13th, 1792.*

The Court have power to grant letters *ad colligenda bona defuncti*. A creditor preferred to one who was the nearest of kin in this Presidency, though not the next in the world.

THE petitioner, De Abreu, was a friend and creditor of the deceased, and named executor in two testamentary papers, one of which was found cancelled, and the other unattested and unexecuted. The caveator, P. DeMello, was first cousin and one of the next of kin of the deceased, and his affidavits stated that there were no debts, except that due to DeAbreu, which the caveator had offered and was ready to pay. It appeared, however, that P. DeMello was not the next of kin, but that the nearest of kin were at Bombay.

*J. Dunkin* and *Strettell*, for the caveator, contended that the next of kin, who were at Bombay, might within a short time apply for the administration, and that in the meantime the Court ought to grant to the caveator, letters *ad colligenda bona defuncti*, because he was the next of kin in this Presidency.

*Burroughs, A. G.* and *Shawe* contra, contended that the next of kin not being within the jurisdiction, the Court was bound to grant administration to a creditor applying; and they doubted whether the charter gave the Court any power of granting letters *ad colligenda bona*.

The Court (*Chambers, C.J., Jones* and *Dunkin, Js.*) had no doubt about their power to grant letters *ad colligenda bona*, but they did not think it necessary in the present case, and they agreed that the administration should be granted to De'Abreu, the petitioner.

*Caveat over-ruled.*

[19] PADRE STEPHANAS ARATOON *v.* SARKIES JOHANNES  
AND THE CROSS LIBEL (1796).

*Chambers' Notes, Dickens' MSS. Nov. 9th, and 10th, 1796.*

The Court has jurisdiction to grant special administration of the goods of an Armenian Christian dying at Canton, leaving property in Calcutta, and leaving a will at Canton, all the executors of which are out of the jurisdiction, and neither renounce nor apply for probate here.

IN December, 1794, one Mathew Johannes, an Armenian Christian, made his will, and died in the same month, at Canton in China. The testator left property to a considerable extent at Canton, Macao, and other places out of the jurisdiction, and about a lakh of rupees in Calcutta, within the jurisdiction. All of the executors named in his will were resident out of the jurisdiction of the Supreme Court, and none of them had applied for probate here, or elsewhere, but they had possessed themselves of all the property, not in Calcutta. The testator was born at Ispahan, and was not a natural born British subject. He had resided in Calcutta and traded there about 32 years ago, when he left Calcutta, and since that time he had resided within the realm of China.

The original promovent, Padre Stephanas, exhibited a copy of the will, and applied for letters of administration with the will annexed, in order to save the