

was to have the administration, in preference to a greater creditor whose debt was on simple contract. The Court further determined, that a debt due for money advanced on a deed of partnership under seal, was only a simple contract debt, because no sum certain was mentioned in the deed, but the sum due was matter of account. The petition was therefore dismissed, and the

Caveat allowed.

IN THE GOODS OF RAJAH NUNDOCOMAR (1781-2).

Hyde's Notes, Nov. 15th, 1781 : Jan. 17th, 1782.

Administration of the goods of an attainted felon, refused.

HARE for the petitioner, Balgovind, who was a creditor of the deceased. The petitioner had applied for administration, in order to obtain payment to himself of the money, which had been paid on the bonds, for the forgery of which Nundocomar was hanged in the year 1775.

Davies, A. G. for the caveator, Rajah Goordass, objected, that it now appeared by affidavit that Goordass was the only son of Nundocomar, and that he was executed for felony.

Upon a motion to appoint a day to argue the caveat,

Chambers, J. said ; At this distance from England I think we ought to take care to do nothing that may infringe the rights of the Crown. There is no officer of the Crown here to take care of them, or to receive the forfeiture due to the King. We have no authority to do so, but yet I think we must take notice of a fact so notorious as that Nundocomar was executed for felony, and the Ecclesiastical Court cannot grant administration of the goods of a man executed for felony.

Hyde, J. It is open to argument whether the Court may grant administration, and how it shall be brought [8] before the Court that we may take notice of it. It is said, this administration is applied for, to obtain payment of the money from the effects of Nundocomar, which he had received on the forged Persian bonds, for the publication of which he was hanged. If no person claims on the part of the King, I do not know that we are under any obligation to take notice of the forfeiture. Whoever possesses the goods will be accountable to the King, when any claim is made, whether it be the administrator, or the son of the deceased.

[No further note occurs. From the records it appears that administration was not granted.] (a)

IN THE GOODS OF PEACOCK (1782).

Hyde's Notes, Jan. 10th, 1782.

Semle :—The next of kin applying for administration, must be the next of kin in the whole world, in order to be preferred to a creditor.

ONE Bulram Ghose petitioned for administration as a bond creditor; and a caveat was entered by Mrs. Walters; but the caveatrix not appearing by her advocate to support the caveat, it was over-ruled without argument.

[8] (a) See the case of *Ranez Hurrosoondery Dossee v. Rajah Krishnauth Roy*, *infra*, Note to title ADMINISTRATION.

Upon the Chief Justice inquiring why the caveator had not appeared, her attorney answered that she was not in fact the next of kin, because the deceased had a widow and children in England.

Impey, C. J. Then that is the argument of the petitioner, Bulram. We have now in fact heard the argument on both sides.

[Upon this, Mr. Justice *Hyde*, in his notes observes :—

“ Sir E. Impey meant by this to recognise and confirm several decisions of the Court, made on his opinion, that a person to be entitled to obtain an administration of the [9] goods of a man deceased, must appear to be his next of kin in the whole world, and not merely the nearest of kin who was in these provinces, and applied for administration, and that a creditor had a better claim by our charter, which directs us to follow the practice of the diocese of London, (a) than any relation to the deceased, who was not the next of kin he had in the world. The reason given by the Chief Justice for this opinion always was, that the title of the next of kin to the administration arose from his title to the effects under the statute of distribution, and his consequent interest in collecting the effects, but that a relation, not being one of the next of kin, was entitled to no share of the effects, and for that reason such relation, more distant than one of the next of kin, had no more claim to the administration than a mere friend of the deceased.”]

Caveat disallowed.

IN THE GOODS OF HARRISON (1782).

Hyde's Notes, Mar. 14th, 1782.

Commission issued out of the Provinces, to swear in administrator.

HARE moved for a commission to certain persons at Cawnpore, to swear John Potter to the truth of his petition for administration with the will annexed.

[10] *Impey, C. J.* Cawnpore is out of the Provinces. How can the Court send a commission thither?

Hyde, J. It has often been done, and I think on this ground, that this kind of voluntary jurisdiction is exercised by all Ecclesiastical Courts in every part of the world, as well as within the local limits of their jurisdiction. Courts of equity do the like.

Impey, C. J. afterwards assented, and accordingly

Commission granted. (a)

[9] (a) The words of the 22nd clause of the Charter are :—“ to grant and commit such letters of administration according to the course now used, or which lawfully may be used, in the said diocese of London, to the lawful next of kin of such person so dying as aforesaid, and in case no such person then be residing within the jurisdiction of the said Supreme Court, or, being duly cited, shall not appear and pay the same, to the principal creditor of such person, or such other creditor as shall be willing or desirous to obtain the same.” In England, administration is grantable by custom to a creditor of the deceased, on the sole ground that he cannot be paid his debt until a representative of the intestate exists (1 Phillimore 177) : but it seems, that administration will only be granted to him failing every other representative, *Webb v. Needham*, 1 Add. 494.

[10] (a) See post. *In the Goods of Tricket*, tit. Executor.