

DECISIONS OF THE SUPREME COURT OF JUDICATURE AT FORT WILLIAM IN BENGAL.—ON THE PLEA, EQUITY, ECCLESIASTICAL, ADMIRALTY, AND CROWN SIDES : FROM THE DATE OF THE CHARTER OF 1774 TO 1841, WITH NOTES BY T. C. MORTON, ESQ., OF THE INNER TEMPLE, BARRISTER-AT-LAW, AN ADVOCATE OF THE COURT. SECOND EDITION WITH ADDITIONAL CASES AND NOTES BY WILLIAM AUSTIN MONTRIOU, ESQ., BARRISTER-AT-LAW.

ADMINISTRATION.

EX PARTE COMMULA, WIDOW, ETC. (1776).

Hyde's Notes, Jan. 8th, 1776 : Feb. 17th, 1776.

Administration granted of the estate of a Hindu, but the administration to follow Hindu law.

NEWMAN moved for a commission to swear in as administratrix of her husband, Commula, the widow of Kebulram Ghose, a Hindu.

The Court doubted, and took time to consider whether administration of the goods of a Hindu should ever be granted. (a) *Impey, C. J. and Chambers, J.* thought, (but *Lemaistre*, and *Hyde, Js.*, differed) that the administrator would be bound to administer according to the statute of distributions.

The Court afterwards determined that administration of the goods of Hindus should be granted, and that the administrator would be bound to administer according to the Hindu customs. (b)

Granted.

[2] IN THE GOODS OF COLLINS (1777)

Hyde's Notes, Mar. 8th, 1777.

Administration refused to the husband of a legatee.

ADMINISTRATION *de bonis non* of the goods of Michael Collins, was petitioned for by William Dobbins, whose wife, Essene, was a legatee under the will.

A caveat was entered by Thomas Gibson, the husband of the deceased executrix.

[1] (a) Probate granted of the will of a Hindu, *Beebe Muttra's case*, post. tit. Executor.

(b) See the question discussed in an able judgment of Sir B. Malkin when Recorder of Penang, *In the goods of Abdallah*, post. In the case of a foreigner dying intestate within the British dominions, the Courts grant administration to the person entitled according to the law of his own country. [2] *In the goods of Beggia*, 1 Add. 340; *In the goods of the Countess Da Cunha*, 1 Hagg. 237; *In the goods of Dormoy*, 3 Hagg. 767. The property of a foreigner, leaving effects within the jurisdiction of English Ecclesiastical Courts, is distributable according to the laws of the country where he was domiciled. See *Thorne v. Watkins*; 2 Vez. Sen. 37, Wms. Exors., p. 1085.

Mr. Dobbins in his petition stated himself to be a creditor, but it appeared that he was, according to his own claim, only entitled to a legacy in right of his wife.

The Court (*Impey, C. J. ; Lemaistre and Hyde, Js.*) upon referring to the charter, considered, that power of granting administration to creditors was intended only to creditors of the deceased, not to creditors of the estate of the deceased ; and it was therefore determined, that administration should not be granted to Dobbins on this petition.

Caveat allowed.

ANONYMOUS (1778).

Hyde's Notes, Mar. 20th, 1778.

Administration granted to a creditor of the estate of a Hindu. The citations should be explained to the relations of the deceased.

UPON motion, administration of the effects of a Hindu was granted to a creditor.

Chambers, J., said, that he thought some provision should be made, that the citations should really be known and understood by the relations of the deceased.

Hyde, & J., entirely agreed in that opinion, and thought a rule should be made of that import ; and he said, that [3] he had several times refused to grant administrations to creditors, when it appeared there were relations, until it was proved by affidavit that real notice had been given to the relations of the deceased.

IN THE GOODS OF AMBROSE ROCKE (1778-9).

Hyde's Notes, Oct. 31st, 1778 : Jan. 19th, 1779.

The Court not bound to weigh nicely the debts due to creditors contesting the rights.

IN this case, Dolman, a hair-dresser, petitioned for administration as being a friend and creditor of the deceased, and stated, that the debt due to him was 320 and odd rupees.

A caveat was entered by Oldham, an undertaker, who swore, that the estate of the deceased was indebted to him 350 and odd rupees.

It was not known who were the relations of the deceased in England, and it was said that in Bengal he had none. The effects were sworn under Rs. 15,000.

Impey, C.J. I do not think we are bound to weigh nicely the debts due to the petitioners. There seem to be not much merits on either side, and therefore I think there is no reason to take the administration from the first applicant. Let the caveat be discharged with costs.

Hyde, J., concurred.

Caveat discharged with costs.