

and we think he is entitled to his costs down to an inclusive settlement of issues. His subsequent costs we think must be borne by himself. He did not then object that the suit ought not to proceed against him, but he set up his alleged title, and throughout the hearing vigorously contested the factum of execution, and it is difficult to believe that he has not influenced the other defendants in the course which they have taken.

1866.
January 4.
 O. S. No. 212
of 1865.

INSOLVENT JURISDICTION (a)

In the matter of DOROTHEA RICKS, an Insolvent.

The Insolvent, who was born in England of English parents, was the widow of a Surgeon, and resided at Salem for some time before and at the time of the presentation of her petition to the Court.

Held, that the 5th Section of the Insolvent Debtors' Act is as applicable to a "British subject" (in the sense in which that appellation is used in the charter of the late Supreme Court) resident within the jurisdiction of the High Court of Madras, as to an inhabitant within the local limits of the Town of Madras.

IN this case the following judgment, from which the facts sufficiently appear, was delivered by

1866.
March 2.

BITTLESTON, J. :—Some doubt arose on the hearing of the matters of the petition in this case as to the Court's jurisdiction. I have since considered the provisions of the charter of the late Supreme Court at Madras, and am of opinion that the Court has jurisdiction to entertain the petition.

The Insolvent is the widow of a Surgeon, and it appeared from her evidence that for some time before and at the time of the presentation of her petition to the Court she was resident at Salem. But it also appeared that she was born in England of English parents, and therefore a "British subject" in the sense in which that appellation is used in the charter of the late Supreme Court, and the doubt at the hearing was whether jurisdiction under the Insolvent Debtors' Act, XI Vic. Cap. 21, executed to "British subjects"

(a) Present Bittleston, C. J.

1866.
 March 2.

resident beyond the limits of the local jurisdiction of the Supreme Court, and which are now the limits of the High Court's ordinary original jurisdiction.

There has not, it seems, been a judicial decision expressly on the point, but the records of the Court show that European British subjects resident in different parts of the Madras Presidency have obtained the benefit of the Act.

The letters patent establishing the High Court leave untouched the jurisdiction of the Insolvent Court, and the provision in Section 5 of the Insolvent Debtor's Act, so far as it is material to state in the present case, is that any person may petition for the benefit of the Act "who shall reside within the jurisdiction of the Supreme Court at Madras". This language certainly refers to a jurisdiction limited in point of locality; but it is not, I think, on that account applicable only to the local limits of the town of Madras, within which, under one provision of the charter, the Supreme Court possessed jurisdiction over all classes of inhabitants. The words are general, "within the jurisdiction of the Supreme Court," and locality was also an element of the jurisdiction given to the Supreme Court over "British Subjects." The provision in the charter as to this extended the jurisdiction of the Court "to all persons heretofore described and distinguished in the charters of the Courts of Justice for Madras by the appellation of British subjects, who *shall reside within* any of the Factories subject to, or dependent upon, the Government of Madras." This clearly conferred a locally limited jurisdiction, and the enactment therefore in the 5th Section of the Insolvent Debtors' Act is, I think, as applicable to a "British subject" resident within the prescribed limits, as to an inhabitant within the local limits of the Town of Madras.

For these reasons I am of opinion that the Insolvent Court has jurisdiction, and the order for the personal discharge of the petitioner may be issued.
