

We are of opinion that this decision is wrong. The proceeding in which the order of the 21st August appears to have been taken with a view to the defendants' furnishing security or, on their failing to do so, the attachment of the land ; but for some unexplained cause it effected neither of these objects. The order does not purport to affect, nor did it in any way affect, the proprietary right of the 3th and 4th defendants. It was of no avail therefore to prevent an effectual complete disposition of such right.

1870.
July 4.
S. A. No. 416
of 1869.

The only question is whether the sale was a real transfer of the title to the land for a fair money consideration paid by the plaintiff, and we understand both the Lower Courts to have so found. That being the case it is immaterial that the motive of the vendors was to prevent the land being attached and sold in execution. The rule of law applicable to the case is fully pointed out in the decisions reported in the *Madras High Court Reports, 3rd Vol., 231, and 4th Vol., 84.*

The decree of the Principal Sadr Amin should therefore, we think, be reversed and that of the Court of First Instance confirmed, and the plaintiff's costs in this appeal and in the Lower Appellate Court paid by the 1st defendant.

Appeal allowed.

Appellate Jurisdiction. (a)

Referred Case No. 33 of 1870.

Arrears of Yeomiah pension due to the estate of a deceased Yeomiahdar which have accidentally accumulated are not subject to attachment in satisfaction of a decree of a Civil Court obtained against the representatives of the Yeomiahdar.

THIS was a case referred for the opinion of the High Court by H. P. Gordon, the Acting Judge of the Court of Small Causes at Chittoor, in Motion No. 574 of 1870:—

1870.
July 8.
R. C. No. 33
of 1870.

This is an application for an order directing the Deputy Collector in charge of the Treasury at Chittoor to pay to motioner (decree holder in Suit 1113 of 1869 on the file of this Court) the sum of Rupees 441-11-2 being arrears of Yeomiah pension due to one Sharfoonissa Yeomiah, pensioner No. 91 deceased, in deposit in the hands of the Deputy Collector.

(a) Present : Scotland, C. J. and Holloway, J.

1870.
July 8.
R. C. No. 33
of 1870.

In Suit 1113 of 1869 the motioner obtained a decree for Rupees 447-10-0 against defendants as heirs and representatives of the abovementioned Sharfoonissa deceased. The decree directed that execution should be taken out against the property of the deceased.

With reference to the notice of this Court issued under Section 237 of the Civil Procedure Code for the attachment of the abovementioned amount, the Deputy Collector in charge of the Treasury informed the Court that Government have in their order dated 19th June 1869, No. 1751, declared their opinion that the arrears in question are subject to the ordinary rules of Mahomedan inheritance.

The pension has not been continued to the heirs of the deceased Sharfoonissa.

Section 3, Regulation IV of 1831 as amended by Act XXIII of 1838, protects grants of this description from attachment or sequestration in satisfaction of a decree or order of Court, but I am of opinion that that provision was not intended to protect the estate of a deceased pensioner.

The question for the decision of the High Court is,

Whether arrears of Yeomiah pension due to the estate of a deceased Yeomiahdar are subject to attachment and sequestration in satisfaction of a decree of Court ?

No counsel appeared.

The Court delivered the following

JUDGMENT :—This fund is composed of an accumulation of monthly payments each of which would, as has been decided in the case reported at 4, Madras H. C. Reports, 277, be exempt from liability to Civil process. The decree is also one against the pensioner. The question here narrows itself therefore to,

Can a number of payments, no one of which would be liable, be liable because they have accidentally accumulated ? In the form therefore in which the present question is put, it must, we think, be answered in the negative. It is by no means necessary to decide that the fund is indelibly impressed with the privilege so that after its descent to one not a Pensioner, it would in his hands be exempt from the payment of debts to which it would otherwise be liable. That it cannot be taken as assets of the deceased Pensioner is the only point here decided.