

(1930) 09 BOM CK 0022

Bombay High Court

Case No: None

Chandulal Madhavlal

APPELLANT

Vs

Maneklal Lalluram

RESPONDENT

Date of Decision: Sept. 2, 1930

Citation: AIR 1931 Bom 251 : (1931) ILR (Bom) 309

Hon'ble Judges: Madgavkar, J

Bench: Division Bench

Judgement

Madgavkar, J.

The question in these applications is how far the receiver appointed by the Baroda Courts can be recognized for the purpose of filing suits in the British Courts. The Baroda Court appointed a receiver. He filed suits in the British Courts. Objection was then taken, which was apparently allowed, and the partners were brought on the record. Subsequently objection was taken as to limitation and contrary to the opinion implied, though not expressed, by his predecessor, the learned Subordinate Judge held that the suits were barred by limitation.

2. The plaintiff has applied in revision.

3. Our attention has been invited today to appeals on similar orders in the District Court of Nadiad, in which the First Class Subordinate Judge with appellate powers has allowed the appeals, and we are asked to follow the reasoning in the judgment in Appeal No. 40 of 1929 in that Court decided on 28th June 1930.

4. That judgment apart, on general principles, as was observed by Macleod, C.J., in *Ismailji v. Ismail Abdul* AIR 1921 Bom. 460,

a Court can appoint a receiver of property outside its jurisdiction and even in foreign territory

and

except perhaps in choses-in-action a trustee in a foreign bankruptcy Court is usually recognized in England: cf. Dicey's Conflict of Laws, Edn. 4, at p. 481.

5. Westlake in his Treatise of Private and International Law, Edn. 7, p. 175, observes:

Curators, syndics, or others who under the law of a country where a debtor is domiciled, or, if the debtor has himself been a party to the proceedings, under the law of the country where he is resident, are entitled to administer his property on behalf of his creditors, are entitled as such to his chattels personal and choses in action in England.

6. Baroda is a State, the decrees of which are recognized and can be executed in the British Courts without the filing of fresh suits and vice versa. If the principle of reciprocity applies to decrees there appears no obvious reason why it should not apply to a person such as a receiver entitled to sue in the case. Estates often comprise properties both in British territory and in Baroda, and it would be a matter of convenience if receivers were recognized. Accordingly on general principles, as well as on the particular facts of this case, we are of opinion that the receivers appointed by the Baroda Courts can, subject to objection by the opposite party, be recognized by the British Courts, and it cannot, therefore be said that the receiver appointed by the Baroda Court had no right to sue; on the contrary he represented the estate of the partnership, so that even if *pro majors cautela* the trial Court thought it necessary to add the partners, the suit, as originally filed, was not barred by limitation, and did not become so barred by reason of the names of the partners being brought on the record as plaintiffs.

7. We allow the application, make the rule absolute, and set aside the order of the trial Court, and direct that it should take the suit back on its file for disposal on the merits. No order as to costs.