

not the discharge of the insolvent that is adjourned, but the further hearing of his petition. The order must, therefore, be amended by substituting in the latter portion of it the words "further hearing" for "discharge."

1868.

*In re*  
MA'NIKJI  
S. KA'KA.'

ARNOULD, J., concurred.

*Appeal dismissed with costs.*

Attorneys for the insolvent: *Acland, Prentis, and Bishop.*

Attorneys for the opposing creditors: *Hearn, Cleveland, and Peile.*

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*In re* LAKHMIDA'S HANZRA'J.

Jan: 31.

*Insolvency—Practice—Notes of Evidence—Appeal—Time for Appealing—Vacation.*

In order to enable an insolvent to appeal from an order passed in the matter of his petition, notes of the evidence *must* be taken at the hearing by an officer of the court.

In the time allowed for appealing, the vacation is to be computed, unless such time expire during the vacation, in which case the petition of appeal must be presented to the Court or a Judge on the first day after the vacation.

PIGOT moved for leave to file a petition of appeal against an order made by Tucker, J., sitting as Commissioner in Insolvency, whereby he sentenced the insolvent to be imprisoned on the Criminal side for six calendar months, and adjourned the hearing of his petition for twelve calendar months.

The order of the Commissioner was made on the 23rd of December 1867, and was sealed on the 24th of January 1868. The calendar month allowed for appealing under Sec. 73 of the Insolvent Debtors' Act had, therefore, expired, from the time of the making of the order. It also appeared that no notes of the evidence had been taken at the hearing by the officer of the court, but notes of the evidence had been taken by the Commissioner.

*Pigot* contended that the days of vacation should not count (in which case the petition would have been in time). He further contended that the time allowed for appealing should date from the sealing of the order.

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*In re*  
 LAKHMIDA'S  
 HANZRAJ.

PER CURIAM (COUCH, C. J., and ARNOULD, J.) :—Notes must be taken by an officer of the Court in Insolvency to enable a party to appeal. Vacation is to be computed in the time allowed for appealing, unless the time expires during the vacation, in which case the petition should be presented to the Court or a Judge on the first day after the vacation.

*Admiralty Side.*

April 28.

*The Proceeds of "The Asia."*

HORMASJI AND UKARJI.....*Plaintiffs.*

*Jurisdiction—Admiralty — Necessaries—Foreign Ship—Discretion—*  
 7 Geo. I., c. 21, Sec. 2—3 & 4 Vict., c. 65, Sec. 6—24 Vict., c. 10.

The Stat. 7 Geo. I., c. 21, Sec. 2 (which declared void all contracts by way of bottomry made by any subject of His Majesty on any ship in the service of foreigners bound, or designed to trade, to the East, and all contracts for loading or supplying such ships with goods, &c., or with any "provisions, stores, or necessaries," &c.), is repealed by implication.

The Stat. 3 & 4 Vict., c. 65, Sec. 6, does not confer jurisdiction upon the High Court of Bombay on its Admiralty side to entertain causes for necessaries supplied to foreign ships, that statute not extending to India.

The Stat. 24 Vict., c. 10 (Admiralty Act of 1860), does not extend to India.

The jurisdiction of the High Court on its Admiralty side is the same as that exercised in the Court of Admiralty in England prior to the passing of the above statutes.

The extent and nature of that jurisdiction considered and explained.

When a suit is brought by material men for necessaries supplied to a foreign ship against the surplus proceeds of such ship lying in the registry of the court, and there is no opposition on the part of the owners of those proceeds, the Court has a discretionary power to allow the claim of the material men to be paid out of such unclaimed proceeds.

**T**HIS suit, filed on the Admiralty side of the High Court, was heard before WESTROPP, J., in a Division Court.

*Farran* for the plaintiffs.

There was no appearance on behalf of the owner.

The facts, pleadings, and cases cited are fully reviewed in the judgment of the Court.

*Cur. adv. vult.*