

[APPELLATE CIVIL JURISDICTION.]

1873
April 1.*Referred Case.*RA'MJI MANOR *Plaintiff.*F. D. LITTLE *Defendant.**Master and servant—Monthly servant leaving service without notice—
Forfeiture of wages.*

Where a servant, who was engaged by the month, served from the 1st November to the 3rd December 1872 and left his master's service on the 4th December, without giving notice :—

It was held that the servant was entitled to be paid his wages up to the end of November but forfeited the wages payable to him in respect of his December services.

THIS was a reference from Gopálráv Hari Deshmukh, Judge of the Small Cause Court at Ahmedabad.

“ I. The question is whether the English Law of Master and Servant is applicable to a case in the Small Cause Court in which the defendant is an Englishman ?

“ II. If so, a servant, on leaving his master's service without notice, forfeits a month's pay, but does the month mean 30 days before date of leaving or the portion of the current month, preceding the day on which the servant left ?

“ III. The plaintiff has filed this suit for the recovery of his wages for one month and three days, *i.e.*, from 1st November to 3rd December 1872, and it is proved that the plaintiff was a monthly servant receiving Rs. 15 a month, and that he left his master's service, without due notice, on the 4th December 1872.

“ IV. The defendant states that he would pay the plaintiff for three days of November and withhold one month's pay from 4th November to 3rd December 1872, that being the month preceding the day of leaving.

1873. " V. I think the English law is applicable, and that the
 RA'MJIMANOR plaintiff, having served for the full month of November, is
 F. D. LITTLE. v. entitled to receive his wages due on the 1st December, and that
 as he has left the service, without leave, on the 4th Decem-
 ber, he should receive no pay for three days of that month
 only."

The reference came on for disposal before Westropp, C.J.,
 and Melvill, J., on the 1st April 1873.

PER CURIAM:—Without laying down any general rule as
 to the application of the English law to this case, the Court
 is of opinion that the servant ought to be paid his wages up
 to the end of November and to forfeit those for December.

[INSOLVENCY JURISDICTION.]

April 2.

In re SITA'RA'M ABBA'JI.

Ex parte SUNDARDA'S MULJI.

Insolvency—Death of insolvent—Vesting order, Effect on—Official Assignee—Stat. 11 & 12 Vict., c. 21—Abatement.

The death of an insolvent before obtaining his discharge does not affect the right of the Official Assignee to deal with the property of such insolvent, nor does it cause the proceedings in such Insolvency, so far as the Official Assignee and the creditors are concerned, to abate.*

THIS was an application made on behalf of Sundardás Mulji for the opinion of the Insolvent Court on the question, whether an abatement of proceedings in Insolvency takes place upon the death of the insolvent before obtaining his final discharge.

The application was made at the request of the Official Assignee.

* *Note.*—See *In re Ramsabuck Misser* (6 Beng. L. R. 119), and *In re King* (Coryton's Indian Insolvent Act p. 18); *sed quaere* as to this last mentioned case.—Ed.