

1909.
 HARGOVAN
 RAMJI
 v.
 MULJI
 HARJIVAN.

property which she dedicated to religious purposes. The whole matter might have been decided in one single investigation and therefore we are of opinion that Mr. Justice Russell was right in holding that this suit is not maintainable.

We, therefore, dismiss the appeal with costs.

Appeal dismissed.

Attorneys for the appellant: Messrs. *Captain and Vaidya*.

Attorneys for the respondent: Messrs. *Bhaishankar, Kanga & Girdharlal*.

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ORIGINAL CIVIL.

Before Mr. Justice Davar.

1909.
 July 17.

VASSONJI TRIGUMJI AND Co., PLAINTIFFS, v. ESMAILBHAI
 SHIVJI AND OTHERS, DEFENDANTS.

*IN RE MAHOMEDBHAI ALLARAKHIA NANJI.**

Practice—Civil Procedure Code (Act V of 1908) O. 1, r. 8—Suit filed by plaintiff representing body of creditors—Application to be made party—Administration suit.

Where a suit has been filed on behalf of a body of persons and an individual member of that body applies to be made a party, he must show that his interests will be seriously prejudiced if he is not allowed to come in. He must show that the conduct of the suit is not in proper hands, or that action prejudicial to his interest is being taken by those who purport to represent him.

In an administration suit it is extremely undesirable that individual creditors should be added as parties unless they show some very strong reason. The willingness of the applicants to bear their own costs does not counterbalance the delay caused by the addition of a party and the consequent increase in the costs of other parties.

THIS matter came before Mr. Justice Davar in Chambers, on a summons taken out by the applicant, Mahomedbhai Allarakhia Nanji, to show cause why he should not be made a party. The facts appear sufficiently from the judgment.

Padshah for the plaintiffs, *Jinnah* for the 1st and 2nd defendants, *Jardine* for the 3rd and 4th defendants appeared to show cause.

* Suit No. 437 of 1909.

Bahadurji appeared for the applicant in support of the summons.

DAVAR, J. :—This suit has been filed by Vassonji Tricumji and Co., a firm, on behalf of themselves and other creditors of the estate of the deceased Ebrahimhai Hassambhai against the executors, the widow and the daughter of the deceased, for the administration of his estate. The applicant, one of the creditors of the deceased, desires to be added as a party. There is no doubt that under O. 1, rule 8, sub-rule 2, he is entitled to apply and the Court has a discretion, if it thinks fit, to add him as a party. The principles on which one of a body on whose behalf a suit has already been filed can claim with some show of justice to be added as a party are well defined. He must show that his interests will be seriously affected to his prejudice if he is not allowed to come in. He must show that the conduct of the suit is not in proper hands or that action is being taken by the parties, who purport to represent him, in some way which is prejudicial to his interests. In an administration suit it is extremely undesirable that individual creditors should be added as parties unless they show some very strong reason indeed that the person who has filed the suit on their behalf is not conducting it in the proper way. In an administration suit all that has to be done is for the Court to supervise the realisation of the estate, to direct that accounts be taken, and to direct how the assets are to be distributed amongst the creditors and parties interested in the residue. So an administration suit differs in its constitution very materially from those suits reference to which has been made by Mr. Bahadurji. No doubt the applicant has stated that he is coming in at his own risk and that he is willing to bear all the costs, but that does not cover the whole ground. In the first place there must be considerable delay caused by another party coming into the suit, and there will be many items of costs which have to be incurred by the other parties, if the applicant is added as a party, which they will never be able to recover. But apart from that, after reading the affidavits and specially the affidavit on which the summons was obtained, I can find no ground whatever for any suggestion that the estate of the deceased is not being properly administered by the Court or that

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the interests of the applicant are in any way being prejudiced. At his instance an officer of the Court was appointed one of the joint receivers and he relies on the fact that when the application was made for the appointment of receivers it was suggested that one of the executors should be appointed receiver together with the plaintiff. There was nothing wrong in that. It was only desired to save costs. Plaintiffs are a well known firm and as a large amount is due to them it is to their interest to realize the estate in the most advantageous way. The executors are also respectable people and there is no suggestion that they will in any way neglect the interests of the estate or of the creditors.

The result of the application being granted by me would be that the final decision of the suit would be delayed, the applicant would be able to intervene in every proceeding, the costs would be largely increased, and eventually the interests of the general body of the creditors and residuaries would be very much prejudiced. I do not want to prejudice the applicant. He may make an application in future if he can show good grounds that his interests are being injured in any way. On the present application I can see no reason to say that the estate of the deceased is not being properly administered. When the administration decree is passed, there will be the usual direction for accounts, creditors will be asked to file their claims in the Commissioner's office, and they can take part in the proceedings there. As regards the realization of the assets, I am sure that is in perfectly safe hands. If the applicant can make out a case in the future, he is at liberty to apply again.

Summons will be dismissed with costs.

Summons dismissed.

Attorneys for the applicant :—Messrs. *Captain and Vaidya.*

Attorneys for the plaintiffs and the 1st and 2nd defendants :—
Messrs. *Matubhai, Jamietram and Madan.*

Attorneys for the 3rd and 4th defendants :—Messrs. *Payne and Co.*