

[BELCHER, C.J., THOMAS AND FUAD, JJ.]

PANTELOU HAJI LOUCA

v.

HAJI NICOLA HAJI CHRISTODOULOU
DEMOSTHENES SEVERIS, *Garnishee.*1930.
Feb. 28.LOUCA
v.
CHRISTODOU-
LOU.

*Civil Procedure—Garnishee—Appeal—Original claim over £25—
Debt of which attachment sought under £25—C.C.J.O., 1927,
Clauses 2 and 33.*

After judgment for £195 plaintiff sought to attach by garnishee order a sum of £20 which he alleged to be due to his judgment debtor. The District Court made the order and the garnishee appealed.

Held, that he could not do so without leave.

Appeal from an order of the District Court of Fama-gusta in action No. 159/28.

Saveriades: I take the preliminary objection that there can be no appeal where the property is worth less than £25.

Clerides for appellant (applicant): Clause 33 of C.C.J.O., 1927, makes District Court decisions in actions for less than £25 unappealable except by leave, but the word "action" refers to the original proceedings which here were for more than £25: therefore the sum claimed in the writ and not the value of what is sought to be attached is the criterion of appealability. I admit I am out of time if leave is necessary.

JUDGMENT:—

BELCHER, C.J. (delivering the judgment of the Court): The appeal must be dismissed. The plain object of Clause 33 of the Order in Council of 1927 is to prevent appeal without leave where the subject-matter does not reach a certain minimum value and this refers to applications as well as final judgments, *see* Section 3. The head-note to *Angelidi v. Ginghiz* (1) indicates, it is true, that in all cases, whether of judgment in the action or an order made on application under it, the claim in the summons is the criterion, but all that that case necessarily decided was that if the original claim was under £20 (the limit in 1896) there could be no appeal without leave, whatever the value of the subject-matter with which the application—it was there an application to set aside a sale of a house as fraudulent—was concerned. We do not think it in any way authority for holding that if the original claim exceeded £25 every application for execution of property of however trifling value must be subject to appeal without leave. All that was in dispute here was a sum of £20.

Appeal dismissed.

(1) 5 C.L.R. 3.