

HUTCHIN-
SON, C.J.
&
TYSER, J.
HAJI
ARAKLIDI
HAJI SYMEON
v.
PAPA CHRIS-
TODOULO
H. GEORGI

For these reasons I am of opinion that the judgment of the District Court should be reversed.

In the above judgment I have assumed that the Berat of the late Archbishop is still in force. It has been unnecessary to consider what effect the Cyprus Courts of Justice Order, 1882, has on the Berat, or what is the effect of the death of the Archbishop.

The Court below after deciding that it had no jurisdiction seems to have examined certain evidence produced by the Defendant, and without hearing evidence on behalf of the Plaintiffs to have given judgment that the Plaintiffs are not the proper parties to sue.

That judgment as to that issue will be no bar to trying the issue when it comes before the Court again.

HUTCHIN-
SON, C.J.
&
TYSER, J.
1904
January 8

[HUTCHINSON, C.J. AND TYSER, J.]

CONSTANTINO P. DIANELLO, *Plaintiff,*
v.
MURID EFFENDI AHMED EFFENDI, *Defendant.*

IMMOVEABLE PROPERTY—SALE IN EXECUTION—INADEQUATE BID—LAW XVI OF 1889, SECS. 3, 6.

The Defendant applied to stay proceedings under a writ for the sale of immoveable property on the ground that the amount bid was not adequate to the value of the property, and his application was refused because he did not produce the verghi register, the Judge refusing to hear other evidence as to the value of the property.

HELD: that the Defendant was entitled to prove the value of the property by evidence other than the verghi register.

This was an appeal from the District Court of Nicosia reversing the decision of Mitzis, O.J., whereby the said Judge had dismissed an application to stay proceedings under a writ for the sale of immoveable property on the ground that the bid was inadequate to the value. The learned Judge so decided because the Defendant had not produced the verghi register to shew the value therein; and he refused to receive other evidence of value.

Artemis for the Appellant:

The Defendant must prove the inadequacy of the bid by the production of the verghi registers.

Kyriakides for the Respondent:

The value in the verghi register is too low. The Defendant is entitled to prove the real value of the property by experts.

January 8

Judgment: Section 3 of the Law XVI of 1889, enables the debtor where a writ for the sale of immoveable property shall have issued and the highest amount bid for all or any of the property shall be inadequate

to its true value to apply to a Court for a stay of proceedings under the writ as to the property the highest bid for which was inadequate.

If there were no other enactment the debtor would be able to, and would have to, prove the inadequacy of the bid by such evidence as would be admissible to prove any other fact.

Section 6 of the Law enables the debtor to prove that the bid is inadequate by shewing that it is less than one-third of the value of the property in the verghi register, unless the Plaintiff proves that the value in such register is too high.

This section enables the Defendant to use as proof the register which would otherwise not be admissible as evidence, but it does not preclude him from producing other evidence.

Appeal dismissed with costs.

HUTCHIN-
SON, C.J.
&
TYSER, J.
1904
January 8

[HUTCHINSON, C.J. AND TYSER, J.]

JOSEPH CIRILLI & SONS,

Plaintiffs,

v.

PARASKEVOU DEMETRI AND ANOTHER,

Defendant.

HUTCHIN-
SON, C.J.
&
TYSER, J.
1905
January 4

MEJELLE, ARTICLES 1660, 1613, 1786, 1787—APPLICATION FOR WRIT OF SALE OF IMMOVABLE PROPERTY—LAPSE OF FIFTEEN YEARS AFTER DATE OF JUDGMENT.

Where no steps in Court or elsewhere had been taken since judgment, an application for a writ of sale of immovable property, made more than fifteen years after the date of the judgment, was refused.

This was an appeal by the Plaintiffs from the decision of the District Court of Larnaca dismissing an application for a writ of sale of certain immovable property of the Defendant in execution of the Plaintiffs' judgment.

The judgment was dated 9th December, 1887.

The application was made on the 28th July, 1904, being more than fifteen years after the date of the judgment. No proceedings in Court were taken by the Plaintiffs after the judgment before this application was made.

Certain applications were made to the Land Registry Office prior to the application for the writ of sale to enable the Plaintiffs to proceed to execution of their judgment, but these applications were more than fifteen years after the date of the judgment.

Euthymiades for the Applicants.

Rossos for the Respondent.

Euthymiades: Art. 1660 does not apply. An application for a writ of sale is not a *dawa*. A judgment debt is not a "*deyn*." It is a *hukm*, *Mejellé*, 1786. He cited *Mejellé*, Arts. 1613, 1666, 1674.