[ZEKIA, P., TRIANTAFYLLIDES AND JOSEPHIDES, JJ.]

1. N. I. DROUSIOTIS & CO.,
2. NICOLAOS DROUSIOTIS,
3. VENIZELOS I. DROUSIOTIS,
4. SINORIK DJEREDJIAN,

Appellants-Debtors,

v.

THE CHARTERED BANK,

Respondents-Creditors.

(*Civil Appeal Nos.* 4525 & 4529)
(*Consolidated*).

Bankruptcy—Petition—Service—Irregularity of service—Adjournment of petition for fresh service—Proof of service of petition when debtor present in person or represented not necessary—Service on firm—If all general partners in a firm are duly served no service of the petition need be effected on the firm at the principal place of its business—Substituted service on Firm—Bankruptcy Law, Cap. 5, *sections* 3, 6 (1) (2) (3) (5) (6) (7) *and* 98 *and Bankruptcy Rules, rules* 4, 7, 16, 39, 40, 41, 51 (1) (2), 58, 59, 60 (2), 128, 131 *and* 132.

Bankruptcy—Power of Court to adjourn of its own motion—Discretionary power—Adjournment of petition for fresh service—Failure of appellants to show that Court applied wrong principle.

Partnership—Judgment against firm is judgment against a partner and may be enforced against him individually—Such judgment would be sufficient foundation for the making of a receiving order and adjudication order against each partner—Bankruptcy Law, Cap. 5, *section* 98, *Bankruptcy Rules* 131 *and* 132.

Service—Proof of service in Bankruptcy Petition—Provisions of section 6 (2) *of the Bankruptcy Law with regard to proof of service of the petition apply only where the debtor does not appear at the hearing.*

The appellants in the instant consolidated appeals complain by means of appeal No. 4525 against a receiving order made by the Court against the third and fourth appellants and an order of the Court adjourning the Bankruptcy petition for 12 days to enable fresh service of the petition to be effected on the first and second appellants ; and by means of appeal No. 4529 against a receiving order made against the first and second appellants following fresh service of the petition on them.

The appeal was mainly argued on the following grounds

(1) The bankruptcy petition as regards the first and second appellants should have been dismissed as one of the necessary ingredients under section 6 (2) of the Bankruptcy Law, Cap 5, regarding personal service on the debtors, had not been established The Court, on its own motion, had no power to adjourn the petition for service purporting to act under section 6 (3)

(2) Under rule 51 (1) of the Bankruptcy Rules service of the bankruptcy petition is personal service on the debtors There is nothing in rule 128 to authorise substituted service on a firm under rule 51 (2)

(3) The affidavit on which the order for substituted service on the first appellant was founded was insufficient and such order should be set aside

(4) The second, third and fourth appellants were not personally indebted under the judgment of the District Court of Famagusta They were liable only as partners of the firm (first appellant), and a receiving order should not have been made against them personally

The Supreme Court in dismissing the appeal—

Held, per Josephides, J , Zekia, P , *concurring and* Triantafyllides, J , *partly dissenting*

(1) It will be noted that section 6 (3) provides that the Court " may " adjourn the hearing of the petition for any just cause, or " may " dismiss the petition as the Court thinks just These are matters of discretion and the Court of Appeal will not interfere unless satisfied that the trial Judge has applied a wrong principle, and the onus of showing that the exercise of that discretion by the judge was not justified on the facts, is on the appellant

(2) In the exercise of its discretion to adjourn the petition, as it did, we do not think that the trial Court applied a wrong principle We are of the view that both under the provisions of section 6 (3) of the Law and rule 58 of the Bankruptcy Rules the trial Court was clearly entitled to follow the course which it did

(3) It would seem that the provisions of section 6 (2) of the Bankruptcy Law, with regard to the proof of the service of the petition apply *only* where the debtor does *not* appear at the hearing

(4) The essential thing in service is that documents served shall be brought to the personal knowledge of the person

whose concern it is (*Re A debtor* (1938) 4 All E.R. 92 at p. 95) ; the notice must reach the mind or attention of the person to whom it is directed (*Re De Cespedes* (1937) 2 All E.R. 572 at p. 576). The general principle of law is that the defendant shall not by defective notice be *condemned unheard* because he has no knowledge of the proceedings against him (*Porter* v. *Freudenburg* (1915) 1 K.B. 858 at p. 889 ; *Re A Judgment Debtor* (1936) 3 All E.R. 767 at p. 774.

(5) We are of the view that if all general partners in a firm are duly served no service of the petition need by effected on the firm at the principal place of business.

(6) We are of the view that where, as in the present case, the principal place of business of a firm (where service may be effected under rule 128) virtually ceased to exist, the court is empowered to order substituted service under rule 51 (2) ; *a fortiori* (as in this case), where personal service is effected on all the general partners (the second, third and fourth appellants) of the firm (the first appellant). We are satisfied that there was sufficient evidence before the Court to justify the making of an order for substituted service.

(7) A judgment against a firm of which the debtor is a general partner is a judgment against him in his capacity of a partner, but he is *jointly and severally* responsible for all debts of the firm, and each debt, including a judgment debt, may be enforced against him individually.

Held, per TRIANTAFYLLIDES, J., *in his partly dissenting judgment :*

(1) In my opinion, sub-section (3) of section 6 provides for courses open to a Court once it has embarked upon the hearing, as such, of a petition and it cannot be resorted to when no such hearing can take place due to absence of proper service.

(2) In the present instance the course of adjourning the petition against respondents Nos. 1 and 2, for proper service, could properly be adopted on the strength of rule 58 of the Bankruptcy Rules. Once this is so, I have no difficulty in upholding the course taken in the matter by the trial Court because, though it based it on the wrong provision, *viz.* sub-section (3) of section 6, it was a course properly open to it both in law—rule 58—and on the facts of the case, also.

Appeal dismissed with costs.

Cases referred to :

Re A Debtor (1938) 4 All E.R. 92 ;

Re De Cespedes (1937) 2 All E.R. 572 at p. 576 ;

Porter v. *Freudenburg* (1915) 1 K.B. 858 at p. 889 ;

Re a Judgment Debtor (1936) 3 All E.R. 767 at p. 774 ;

In *Re A Debtor* (No. 24 of 1935) (1936) 1 Ch. 292.

1965
Oct. 10,
Nov. 11
—
1. N. I. DROUSIOTIS & Co.,
2. NICOLAOS DROUSIOTIS,
3. VENIZELOS I. DROUSIOTIS,
4. SINORIK DJEREDJIAN
v.
THE CHARTERED BANK

Appeal.

Appeal against the orders made by the District Court of Famagusta (Evangelides, P.D.C. & Kourris, D.J.), dated the 8.5.65 (Bankruptcy Petition No. 1/65) whereby *inter alia* a receiving order was made against the debtors.

St. Pavlides and *A. Antoniades*, for appellants Nos. 1, 2 and 3.

Appellant No. 4 not represented.

M. Montanios, for the respondents.

Cur. adv. vult.

The facts sufficiently appear in the judgment of the Court.

ZEKIA, P.: The judgment of the Court will be delivered by Mr. Justice Josephides.

JOSEPHIDES, J.: These are two consolidated appeals made in the same bankruptcy petition. The first appeal (No. 4525) is (*a*) against a receiving order made by the District Court of Famagusta against the third and fourth appellants and (*b*) against an order of the Court adjourning the bankruptcy petition for 12 days to enable fresh service of the petition to be effected on the first and second appellants. The second appeal (No. 4529) is against a receiving order made by the District Court of Famagusta against the first and second appellants following fresh service of the petition on them.

The first appellant is a partnership registered under the provisions of the Partnership Law, Cap. 116, and the second, third and fourth appellants are the general partners of the aforesaid firm.

The petitioning creditor (respondent) obtained judgment against all four appellants in the sum of £319,960.388 mils (with interest and costs) on the 14th November, 1964, in the District Court of Famagusta.

A bankruptcy notice issued on the 8th January, 1965, under the provisions of section 3 of the Bankruptcy Law, Cap. 5, and Bankruptcy Rules 39 and 40, in the prescribed form, was served on all appellants in the prescribed manner. They neither objected to such a bankruptcy notice nor did they file an affidavit under the provisions of Bankruptcy

Rule 41 which would have operated as an application to set aside the bankruptcy notice ; nor did they pay off the amount of the judgment debt or part thereof.

The petitioning creditor filed his bankruptcy petition on the 27th February, 1965, which was made returnable on the 20th March, 1965. The third and fourth appellants were served personally by the Court bailiff on the 11th March and 13th March, 1965, respectively. In the case of the second appellant, copy of the petition was served for him by the Court bailiff on his brother, the third appellant ; and in the case of the first appellant (the firm) a copy of the petition was served by the bailiff on the third appellant, who is a general partner, but such service was effected at a place other than the principal place of business of the firm in Cyprus.

Following the appearance of the parties on the first day of the hearing before the Court on the 20th March, 1965, copy of the petition was served again on the first three appellants on the 22nd March, 1965, but we are not here concerned with that service.

On the 16th March, 1965, the second and third appellants filed, through their advocate, a notice of intention to oppose the petition under the provisions of rule 59, and they described themselves in the notice as " partners of N.I. Drousiotis & Co. of Famagusta " (the *first appellant* firm). This was an unconditional opposition. We shall deal with the contents of the opposition at a later stage of this judgment.

On the 19th March, 1965, the fourth appellant likewise filed an opposition under rule 59, which was also unconditional. However, this appellant did not appear at the hearing of the present appeal although duly notified of the day of hearing.

On the 8th May, 1965, the District Court made a receiving order against the third and fourth appellants. The Court also found that service on the first and second appellants was bad and, relying on the provisions of section 6 (3) of the Bankruptcy Law, Cap. 5, it adjourned the petition for 12 days to enable fresh service to be effected on these two appellants. Subsequently, substituted service was allowed on the filing of an affidavit and was duly effected on the first appellant (the firm), and personal service was effected on the second appellant. Eventually, the District Court made a receiving order against the first and second appellants on the 10th June, 1965.

The appeal was argued before us on the following grounds :

(1) The bankruptcy petition as regards the first and second appellants should have been dismissed as one of the necessary ingredients under section 6 (2) of the Bankruptcy Law, Cap. 5, regarding personal service on the debtors, had not been established. The Court, on its own motion, had no power to adjourn the petition for service purporting to act under section 6 (3).

(2) Under rule 51 (1) of the Bankruptcy Rules service of the bankruptcy petition is personal service on the debtors. There is nothing in rule 128 to authorise substituted service on a firm under rule 51 (2).

(3) The affidavit on which the order for substituted service on the first appellant was founded was insufficient and such order should be set aside.

(4) The second, third and fourth appellants were not personally indebted under the judgment of the District Court of Famagusta. They were liable only as partners of the firm (first appellant), and a receiving order should not have been made against them personally.

With regard to the first ground of appeal it would be helpful if we quoted the relevant provisions of section 6 of the Bankruptcy Law, Cap. 5 :

" 6 (1) A creditor's petition shall be verified by affidavit of the creditor, or of some person on his behalf having knowledge of the facts, and served in the prescribed manner.

(2) At the hearing of the petition, the Court shall require proof of the debt of the petitioning creditor, of the service of the petition, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy, and, if satisfied with such proof, shall make a receiving order in pursuance of the petition.

(3) The Court may adjourn the hearing of the petition either conditionally or unconditionally, for obtaining further evidence, or for any other just cause or may dismiss the petition with or without costs, as the Court thinks just.

(4)

(5) If there are more respondents than one to the petition, the Court may dismiss the petition as to one or more of them, and may order the case to be proceeded with against the other or others of them.

(6) Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the Court, on such security (if any) being given as the Court may require for payment to the petitioner of any debt which may be established against him in due course of law, and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.

(7) Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that is indebted to such an amount as would justify the petitioner in presenting a bankruptcy petition against him, the Court shall have jurisdiction for the trial of the question relating to such debt, subject to an appeal before the Supreme Court as herein provided and in the meantime all proceedings on the petition shall be stayed pending the result of such trial as aforesaid.

(8) ."

It will be noted that section 6 (3) provides that the Court " may " adjourn the hearing of the petition for any just cause, or " may " dismiss the petition as the Court thinks just. These are matters of discretion and the Court of Appeal will not interfere unless satisfied that the trial Judge has applied a wrong principle, and the onus of showing that the exercise of that discretion by the judge was not justified on the facts, is on the appellant.

As regards the service of the petition on the first and second appellants in this case, it would seem that it was the fault or omission of the Court bailiff who did not comply with the provisions of the Bankruptcy Rules (rule 51 (1) and rule 128), *i.e.* in the case of second appellant, a general partner, he did not serve personally as required under rule 51, but he served on the brother of the second appellant who is the third appellant ; and in the case of the firm (first appellant) he did not serve at the principal place of business of the firm although he delivered copy of the petition to the third appellant who is a general partner in the firm.

The petitioner did not fail in any of his duties or obligations laid down in the Bankruptcy Law and Rules. On the contrary, he duly filed his petition, he provided extra copies for service, he paid to the Court registry the pres-

cribed fees, including service fees, and there was nothing which he was bound to do and which he failed to do. The question then arises why should the petitioner be penalized for the Court bailiff's omission ? Why should his petition be dismissed and not adjourned for fresh service ? In the circumstances of this case, would it be reasonable for this Court to hold that the Court bailiff's failure to comply with the rules as to service and the necessity for fresh service on two out of the four debtors was not a " just cause " for the trial Court to adjourn the hearing of the petition and that it erred in principle in the exercise of its discretion ? We think not. We are of the view that both under the provisions of section 6 (3) of the Law and rule 58 of the Bankruptcy Rules the trial Court was clearly entitled to follow the course which it did.

Bankruptcy Rule 58 provides that " where there are more respondents than one to a petition, the rules as to service shall be observed with respect to each one of them ; but where all have not been served, the petition may be heard, separately or collectively, as to those who have been served, and separately or collectively as to those not then served according as service upon them is effected ".

In this case the trial Court heard the petition fully with regard to the third and fourth appellants and made a receiving order against them ; and in the case of the first and second appellants it decided the issue of the service of the petition on them by the Court bailiff holding that the rules as to service had not been observed. The Court then adjourned the petition and directed fresh service on these two appellants. In the exercise of its discretion to adjourn the petition as it did, we do not think that the trial Court applied a wrong principle.

Two further questions which, we think, should be considered in deciding this matter are—

(*a*) Need service of the petition be proved on a debtor if he is present in person or represented by counsel at the hearing of the petition ? and

(*b*) If all general partners are served need service be effected on the firm at the principal place of business ?

With regard to (*a*), it would seem that the provisions of section 6 (2) of the Bankruptcy Law, with regard to the proof of the service of the petition apply *only* where the debtor

does *not* appear at the hearing. We are confirmed in this view by the following provisions in the same Law :

(i) the provisions of sub-sections (6) and (7) of section 6 which provide for cases where the debtor appears on the petition and which do not require proof of the service of the petition in such cases ;

(ii) the provisions of rule 60 (2) of the Bankruptcy Rules which lay down that " if the debtor appears to show cause against the petition, the petitioning creditor's debt, and the act of bankruptcy, or the matters notified by the debtor to be disputed, shall be proved ; and if further time shall be desired by the petitioning creditor or by the debtor, the Court may, where it is satisfied that the extension will not be prejudicial to the general body of creditors, grant such further time (in each case not exceeding seven days) as it may think fit ". It will be observed that there is no provision in that rule for proof of service of the petition on the debtor.

The essential thing in service is that documents served shall be brought to the personal knowledge of the person whose concern it is (*Re A debtor* (1938) 4 All E.R. 92 at page 95) ; the notice must reach the mind or attention of the person to whom it is directed (*Re De Cespedes* (1937) 2 All E.R. 572 at page 576). The general principle of law is that the defendant shall not by defective notice be *condemned unheard* because he has no knowledge of the proceedings against him (*Porter* v. *Freudenburg* (1915) 1 K.B. 858 at page 889 ; *Re A Judgment Debtor* (1936) 3 All E.R. 767 at page 774).

In the present case, although the second appellant was not served personally he filed a notice of opposition under rule 59, through his counsel, four days before the date originally fixed for the hearing of the petition and one month before it was eventually heard, stating that he intended to oppose the making of a receiving order and that he would dispute paragraph 3 (*b*) of the petition (regarding certain bills of exchange held by the petitioner as security), and alleging further that the petition was defective on the ground that the provisions of Bankruptcy Rules 7 and 16 had not been complied with, *i.e.* that the title shown in the petition was not in accordance with the provisions of rule 7 and that the petition did not set out the Law or Rules on which it was based (rule 16). It will be observed that no objection was taken by the appellant regarding the service of the petition on him, and the opposition was unconditional. All appel-

lants (debtors) were represented by eminent counsel from the very first day fixed for hearing before the Court and all appearances and adjournments, *viz.* on the 20th March, 1965, 27th March, 1965 and 3rd April, 1965, were unconditional and without protest.

In fact this was a case where a slip was made in the matter of service by the Court bailiff ; but what is important is that the debtors received notice of the petition, had knowledge of the proceedings against them and they were not condemned unheard. In *Re A Debtor* (1938) 4 All E.R. 92, at page 97, Sir Wilfrid Greene, M.R. was of the view that where a slip was made in the matter of service the Bankruptcy Registrar ought not to have allowed that to lead to a dismissal of the petition, but ought to have given facilities for remedying it ; and that that could quite easily have been done by fixing a different date for the hearing of the petition. The following are the relevant extracts from his judgment (at pages 96 and 97) :

> " It is no exaggeration to say that the practice in regard to writs, and the requirements of the law in regard to the service of writs, are, and have always been, regarded as matters *strictissimi juris*. In the case of the service of a bankruptcy petition, I can see nothing in the section and rules which can fairly be construed as relaxing the strict requirements which are to be found in the case of the service of writs and other documents under the rules of the Supreme Court." (At page 96).

> " In the present case, as I say, the registrar dismissed the petition, but I cannot think that, in doing so, he can have had properly before his mind the fact that, on the facts of this case, the debtor has been fortunate enough to escape on a matter of great strictness, and also that the result of dismissing the petition may be to work serious injustice. This is a case where a slip was made in the matter of service, and it seems to me that the registrar ought not to have allowed that to lead to a dismissal of the petition, but ought to have given facilities for remedying it. That could quite easily have been done by fixing a different date for the hearing of the petition, which would have meant that both the order indorsed on the petition and the order for service out of the jurisdiction, in so far as it deals with the date of hearing, would have to be amended by subsequent order, and that, that date having been fixed, the petitioning creditor, if he could successfully do so, would be entitled to serve the debtor. That seems to me to be the

course which he ought, in order to do justice, to have followed, and I cannot see any adequate ground for dealing with the matter in the way in which he did." (At page 97).

With regard to (*b*) above, we are of the view that if all general partners in a firm are duly served no service of the petition need be effected on the firm at the principal place of business. We base that view on the following considerations :

(i) under the provisions of rule 128, where any notice of petition for which personal service is necessary is served at the principal place of business of the firm in Cyprus on any person having at the time of service control or management of the partnership business there, or upon any one or more of the general partners at the principal place of business, such notice or petition is deemed to be duly served on all the members of a firm ;

(ii) under the provisions of rule 131, a receiving order made against a firm shall operate as if it were a receiving order made against each of the general partners in the firm ; and where such an order is made the general partners shall submit a statement of their partnership affairs, and each one of such partners shall submit a statement of his separate affairs ; and

(iii) under the provisions of rule 132, no order of adjudication can be made against a firm in the firm name, but it shall be made against the general partners individually.

Furthermore, where judgment for a debt has been recovered against a firm and a bankruptcy notice in the usual form and following the judgment has been served on one of the partners only, at a place other than the principal place of business of the firm and has not been complied with, a receiving order can properly be made against that partner on the judgment creditor's petition (in *Re A Debtor* (1936) 1 Ch. 292).

The question whether the first and second appellants waived the irregularity of the service of the petition on them, by the fresh steps taken by them in the proceedings unconditionally and without protest, was not raised or argued before us and we will, therefore, leave it open.

This concludes the first ground of appeal. We need deal briefly with the remaining grounds.

With regard to the second and third grounds, we are of the view that where, as in the present case, the principal place of business of a firm (where service may be effected under rule 128) virtually ceased to exist, the Court is empowered to order substituted service under rule 51 (2); *a fortiori* (as in this case), where personal service is effected on all the general partners (the second, third and fourth appellants) of the firm (the first appellant). We are satisfied that there was sufficient evidence before the Court to justify the making of an order for substituted service.

The fourth and final ground of appeal was that the second, third and fourth appellants were not personally indebted under the judgment of the District Court of Famagusta and that, as they were liable only as partners of the firm, a receiving order should not have been made against them personally. In the first place, the office copy of the judgment of the District Court of Famagusta, produced in evidence, shows that these three appellants were personally indebted to the petitioner, and the judgment is final and has *not* been set aside. A bankruptcy notice was duly served on them under the provisions of the Bankruptcy Law but they neither complied with it nor did they take any step to have it set aside on the above ground or, indeed, on any ground. In any event, even if the said judgment of £319,960.388 mils was a judgment against the firm only (the first appellant) it would really make no difference for practical purposes, as in law this would be a sufficient foundation for the making of a receiving order and an adjudication order against each one of the general partners, namely, the second, third and fourth appellants. This view is supported by section 98 of our Bankruptcy Law, Cap. 5, which lays down that " any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present a petition against any one or more partners of the firm without including the others "; and by rules 131 and 132 of the Bankruptcy Rules, which provide that a receiving order made against a firm shall operate as if it were a receiving order made against each of the general partners in the firm, and that an order of adjudication shall be made against the general partners *individually* but not against the firm in the firm name.

As Lord Wright, M.R. said in *In Re A Debtor* (*No.* 24 of 1935) (1936) 1 Ch. 292 at page 298 : " It is perfectly true that in form the judgment was against a firm of Robert Jackson & Co. of which the debtor was a partner, but none the less it is a judgment against the debtor in his capacity

of a partner. He is jointly and severally responsible for all the debts of the firm ; and each debt, including this judgment debt may be enforced against him individually, and, therefore, is a final judgment against him even though it is also a judgment against someone else."

All the above make it abundantly clear that a judgment against a firm of which the debtor is a general partner is a judgment against him in his capacity of a partner, but he is *jointly and severally* responsible for all debts of the firm, and each debt, including a judgment debt, may be enforced against him *individually*.

We need hardly state that the objections raised by the appellants are matters of technicality and that in actual fact all of them had ample notice and knowledge of the proceedings and had the opportunity of being heard on the merits and defending their case.

In conclusion it should be stated that it is not in dispute that the firm and all the general partners (all appellants) are insolvent. Moreover, the appellants do not allege that they have any prospects of any assets coming into their hands in the near future so as to place them in a position to pay their debts. In their evidence before the trial Court, the appellants admitted that the firm had ceased carrying on any business and that they had been collecting money due to them and paying out their liabilities. In these circumstances we fully endorse the statement of the trial Court in their judgment that " it is of the utmost importance, in view of their insolvency, to see not only that the assets are not wasted, but at the same time that the liabilities are paid proportionately with due regard to priorities. It is, therefore, to the public interest that a receiving order should be made as early as possible ".

For these reasons both appeals are dismissed with costs.

TRIANTAFYLLIDES, J.: I have had the benefit of perusing the learned judgment of my brother Judge, Mr. Justice Josephides and, though I agree in general with the outcome of these appeals, I am afraid that I cannot agree with the interpretation given to sub-section (3) of section 6 of the Bankruptcy Law, Cap. 5, in the said judgment.

I will not go into any great length in giving my reasons ; I would like only to state that, in my opinion, sub-section (3) of section 6 provides for courses open to a Court once it has

embarked upon the hearing, as such, of a petition and it cannot be resorted to when no such hearing can take place due to absence of proper service.

This is apparent both from the contents of the said sub-section as well as from its place in the whole scheme and context of section 6 ; in particular, it is useful to note the contents of sub-section (2) which follows immediately before sub-section (3).

In the present instance the course of adjourning the petition against respondents Nos. 1 and 2, for proper service, could properly be adopted on the strength of rule 58 of the Bankruptcy Rules. Once this is so, I have no difficulty in upholding the course taken in the matter by the trial Court because, though it based it on the wrong provision, *viz.* sub-section (3) of section 6, it was a course properly open to it both in law—rule 58—and on the facts of the case, also.

Subject to what I have stated about the interpretation of sub-section 6, I agree, otherwise, that these appeals should be dismissed.

Appeals dismissed with costs.