

FISHER,
C.J.
&
GRIM-
SHAW,
P.J.
1924

June 20

[FISHER, C.J. AND GRIMSHAW, P.J.]
MICHAEL ERACLES MICHAELIDES
v.
MEHMED HUSSEIN HAJI OMER.

HAWALE—RELEASE OF ORIGINAL DEBTOR—MEJELLE ARTS. 649, 673, AND 680.

In this action, Plaintiff claimed an amount from the Defendant alleging that the Defendant had undertaken to pay a debt due to him (Plaintiff) by a certain Shucri. Plaintiff said in evidence (inter alia) that he still held Shucri bound until he was paid off and that he made no entry in his books that Shucri was released from the debt.

The District Court held that a hawale had taken place and that defendant was liable.

The Defendant appealed from that judgment.

For Appellant *Kakoyanni*.

For Respondent *H. Michaelides*.

Judgment : Reversing the District Court, no hawale has taken place because plaintiff has not considered the original debtor released.

Appeal allowed with costs.

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June 21

[FISHER, C.J. AND GRIMSHAW, P.J.]
CHRISTODOULO D. HAJIPAVLO

v.

1. NICOLA LOURO
2. YEORGHIOS P. KOFTEROU, *Principal Debtor,*
3. THE SYNDICS IN THE BANKRUPTCY OF PANAYIOTIS
HAJICHANGARI, *Guarantor.*

CIVIL PROCEDURE AMENDMENT LAW, 1885, SEC. 52—BANKRUPTCY OF JUDGMENT DEBTOR—RIGHT OF SALE BY JUDGMENT CREDITOR—VERIFICATION.

Plaintiff obtained judgment against all three Defendants by default, on the 10th April, 1922.

Third Defendant became bankrupt on the 18th June, 1923.

Date of cessation of payment fixed by the Court as the 10th October, 1922. On the 12th October, 1922, the 10th November, 1922, and the 11th December, 1922, the Plaintiff registered his judgment at the Land Registry Office by lodging a copy thereof together with a memorandum, as required by section 52 of the Civil Procedure Amendment Law, 1885, on the immoveable property of Defendant No. 3.

The Plaintiff applied to the District Court for an order for sale of the third Defendant's immoveable property.

The District Court made the following order:—

In our opinion the remarks of Bertram, J. in 9 C.L.R. p. 3 are not obiter but form part of the judgment of the Supreme Court and this is borne out by the remarks of the learned Chief Justice in the same case.