

[BOVILL, C.J. AND SMITH, J.]

MICHAÏL KAMBELLIDI

Plaintiff,

v.

HADJI PHOTINI HADJI ANDONI Defendant.

BOVILL,
C.J.
&
SMITH, J.
1885.
—
May 15.
—EXECUTION—SALE AT INSTANCE OF ONE JUDGMENT CREDITOR—
RIGHT OF OTHER JUDGMENT CREDITORS TO SHARE IN PROCEEDS.

Where property of a debtor has been sold under a writ of execution obtained by one judgment creditor whose debt is not satisfied by the proceeds of such sale, the Court cannot direct the monies so raised by execution to be divided between this judgment creditor and other judgment creditors of the same debtor.

APPEAL from the order of the District Court of Famagusta.

Michaïl Kambellidi, who was the judgment creditor of Demetri Hadji Louka and Eleni, caused the immoveable property of the debtors to be sold in satisfaction of his judgment.

Hadji Photini Hadji Andoni, who was also an execution creditor of the same debtors, applied to the District Court for an order that she should be entitled to share in the proceeds of the sale of the debtors' property.

The proceeds of the sale were insufficient to satisfy Michaïl Kambellidi's debt.

The District Court made an order as prayed by Hadji Photini.

This order having been made *ex parte*, Michaïl Kambellidi applied to the District Court to set it aside.

The Court refused the application.

Michaïl Kambellidi appealed.

Duran Augustin, for the appellant. One judgment creditor has no right to step in and claim a share in the proceeds of execution obtained by another. It is only in cases of bankruptcy that a debtor's property becomes divisible amongst his creditors. *Besh Besh v. Apostolides and others*. [Ante p. 1].

Burke, for Hadji Photini Hadji Andoni, contra.

Judgment: The appeal must be allowed. It is quite clear that Hadji Photini had no right to ask that she should be allowed to share in the proceeds of the execution levied in satisfaction of Michaïl Kambellidi's debt and which were insufficient even to satisfy that debt. Apart from general principles, this may be gathered from Article 14 of the Law on Forced Sales [Leg. Ott., Vol. I., p. 270], which says that if one creditor does not apply for the sale of his debtors' property within the time prescribed by that law, another may do so.

Appeal allowed with costs.