

restrained from using the channel mentioned in the writ. As to this, the evidence before the Court does not justify the conclusion, that the channel belongs to the plaintiffs, or that they have any such right to the use of it, as to justify their claim, that defendant may be restrained from using it.

We are for these reasons of opinion that the plaintiffs' claim wholly fails.

The judgment of the District Court must be confirmed and this appeal dismissed with costs.

Appeal dismissed.

BOVILL,
C.J.
&
SMITH, J

EVAGGELI
ANASTASSI
AND OTHERS
v.

YANAKO HJ.
(GEORGH).

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

GEORGHIOS AGGELIDI

Plaintiff.

v.

FEHIM BEY TUDJARBASHI

Defendant.

BOVILL,
C.J.
&
SMITH, J.
1892.

June 28.

SHERI COURT—JURISDICTION—INHIBITION OF SPENDTHRIFT—

NOTICE OF INHIBITION—MEJELLE, § 958.

The defendant who had been inhibited by an Ilam of the Cadi from the management of his affairs, subsequently purchased goods from the plaintiff, giving a promissory note in payment. Notice of the inhibition had been given by one advertisement of the Ilam of the Cadi in a Greek newspaper published in Nicosia.

Held: That the Cadi had jurisdiction to make an order inhibiting the defendant from managing his affairs, but that the notice of the inhibition was insufficient, and that, therefore, the plaintiff was entitled to recover the amount of the promissory note.

APPEAL from the District Court of Nicosia.

Action to recover £7 due on a promissory note given by defendant, in payment of goods sold to him by the plaintiff. The note was dated 28th August, 1891, and fell due on the 7th September, 1891.

The defendant pleaded that he was not liable to pay the note, inasmuch as he had been inhibited from entering into any transactions by the Cadi, under the provisions of Section 958 of the Mejellé, and that the interdiction had been duly notified by advertisement published in a newspaper.

BOVILL, C.J. & SMITH, J. — GEORGHIOS AGGELIDI v. FEHIM BEY TUDJAR-BASHI. —

The plaintiff replied that the Cadi had no jurisdiction to make the order prohibiting the defendant from carrying on his affairs, and the publication of the notice of the Cadi's Ilam was not a sufficient notification of the fact of the prohibition having been made.

The Court gave judgment for the plaintiff, on the ground that the Ilam of the Cadi, prohibiting the plaintiff as a spendthrift from carrying on his affairs, was not "a religious matter concerning persons of the Mussulman faith" within the meaning of Article 20 of the Cyprus Courts of Justice Order, 1882, and that the notice of the prohibition was insufficient.

The defendant appealed.

Lascelles for the appellant. The question is whether the Cadi has jurisdiction to inhibit a Moslem as a prodigal, so as to affect the validity of the contracts he enters into. In consequence of the reck'ess expenditure of money by the defendant, his friends applied to the Cadi, who made an enquiry, and on the 22nd January, 1891, issued his Ilam prohibiting the defendant from managing his own affairs. Notice was given of the Ilam by advertisement in the "Evagoras" on the 23rd January. The "Evagoras" is a paper published in Nicosia once a week. I contend that this is a matter within the exclusive jurisdiction of the Cadi. The Court below thought that it was not "a religious matter," but it is as much a religious matter as questions of marriage, dower, divorce, etc., which are in the exclusive cognizance of the Sheri Court. The publication of notice of the Ilam is sufficient.

Diran Augustin for the defendant. The inhibition of a prodigal is not a religious matter, and the Cadi had no jurisdiction. One publication in one newspaper is insufficient, and under Article 961 of the Mejellé, the grounds on which the inhibition were pronounced must be notified. That was not done here.

Judgment : In this case the Court has given judgment for the plaintiff on two grounds : (1) that the Cadi had no jurisdiction to declare the defendant who is a Moslem, incapable of managing his affairs ; and (2) that sufficient notification of the prohibition had not been given.

The first question depends upon the meaning of Section 20 of the Cyprus Courts of Justice Order, 1882, which restricts the jurisdiction of the Mehkemé-Sheri to the cognizance of religious matters concerning persons of the Mussulman faith. There is no definition of what these religious matters are, but we think that such a matter as the one before us is a matter which is within the jurisdiction of the Cadi. We agree, however, with the District Court in considering that the notice of the inhibition is insufficient. One publication, in one Greek newspaper, is not a satisfactory means of calling the attention of the public to the fact that the defendant is a person who was under a legal incapacity to enter into contracts, and on this ground we think that the judgment of the District Court should be upheld.

Appeal dismissed.

BOVILL,
C.J.
&
SMITH, J.
—
GEORGIOS
AGGELIDI
v.
FEHIM BEY
TUDJAR-
BASHI.
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