

TYSER, C.J. I cannot help feeling that this is an entirely different contract, & BERTRAM that it was intended to release the principal debtor and did so release J. him, and that it placed him under a new obligation which might be IN RE more onerous than the original one. The amount due was changed, HECTOR as well as the time of payment. ELEUTHE-  
RIADES

I conclude therefore that there was a novation and that the guarantor was released, and I agree therefore that the appeal must be allowed with costs.

*Appeal allowed.*

TYSER, C.J.  
&  
BERTRAM  
J.  
1910  
Feb. 14

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

AYSHE ALI AGHA AND OTHERS,

*Plaintiffs,*

v.

SALIH ALI AGHA AND OTHERS,

*Defendants.*

CIVIL PROCEDURE—EXECUTION—WRIT OF PARTITION—OBSTRUCTION OF OFFICE OF COURT—CYPRUS COURTS OF JUSTICE ORDER 1882, ARTS. 39, 212—CIVIL PROCEDURE LAW, 1885, SEC. 92.

*An official of the Land Registry Office executing a writ of partition is for the time being an officer of the Court, and any person obstructing him is liable to be punished summarily.*

This was an application arising out of a judgment of the Supreme Court.

The judgment had ordered that a certain house should be partitioned, and 7/24 registered in the name of one Plaintiff and 3/24 in the name of another.

Upon this judgment being given, the Plaintiffs applied to the Land Registry Office for a division of the house and the registration of their shares in their names. An official proceeded to the village to inspect the house, but though he produced the order of the Supreme Court, the Defendant on three successive occasions refused to admit him, and locked the door against him.

The Plaintiffs now applied to the Court under Art. 39 of the Order in Council for an endorsement on its order in the terms of the sub-clause (i).

*Myriantheus* for the Applicants.

The Respondents in person.

*Judgment:* This application is made under Art. 39 of the Order in Council, asking us to endorse upon our judgment a memorandum that unless the Defendants obeyed the order within the time appointed, they will be liable to be arrested and have their property sequestered.

It is clear however that no order could be made under this article inasmuch as no order has yet been made calling upon these Defendants to do or not to do any act.

The proper course would have been for the Plaintiffs to have applied to the District Court under Sec. 92 of the Civil Procedure Law, 1885, for a Writ of Partition addressed to the Land Registry Office directing a partition of the property. The Land Registry official executing the writ would become for the purpose of the writ an officer of the Court, and any person obstructing him in the discharge of his duties would then be proceeded against under Art. 212 of the Order in Council.

There may possibly be other remedies, and what we now say is without prejudice to those other remedies, but the course we have indicated seems to us the course which the applicants should adopt in this case.

*Application refused.*

TYSER, C.J.  
&  
BERTRAM  
J.

AYSHE ALI  
AGHA  
AND  
OTHERS  
v.  
SALIH ALI  
AGHA  
AND  
OTHERS  
—

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The case of *Rex v. Hassan Ali* reported in pages 46-47 of the original edition is no longer of any importance.