

11FED.CAS.—58

Case No. 6,266.

HAYMAN v. MOXLEY.

{5 Cranch, C. C. 36.}¹

Circuit Court, District of Columbia.

Nov. Term, 1836.

INSOLVENCY—DISCHARGE—RESCISSION.

Upon allegations filed in court, within two years after the application of an insolvent debtor for the benefit of the act for the relief of insolvent debtors within the District of Columbia, if the defendant do not appear to answer the same, after being duly summoned, the court will proceed to take evidence ex parte in support of the allegations, and, if they find them to be true, will direct that the order of discharge, before made by a judge out of court, be rescinded, and that the defendant be precluded from the benefit of the act.

HAYMAN v. MOXLEY.

Samuel Moxley, on the 15th of November, 1831, made application to the chief judge of this court, to be discharged under the act for the relief of insolvent debtors within the District of Columbia [2 Stat. 237], and was discharged on the 21st of the same month. Within two years after his said application, William Hayman, a creditor of Moxley, filed in this court allegations charging that Moxley had, within twelve months nextpreceding his said application, conveyed certain property to one Samuel Chew to secure a debt due to one Peter Ritter by the said Moxley, with intent to give Ritter a preference, contrary to the 7th section of the act Notice of the said allegations was duly given to Moxley, and he was duly summoned to answer the same on the 4th Monday of March, 1834, which he failed to do; whereupon, THE COURT, on the 7th of December, 1836, proceeded to receive evidence ex parte in support of the allegations, and finding them to be true, they made the following order: "Whereas the said Samuel Moxley heretofore, to wit, on the 15th day of November, 1831, filed his petition before the chief judge of the said circuit court to be discharged from imprisonment under the provisions of the act for the relief of insolvent debtors within the District of Columbia, and having taken the oath by the said law prescribed to be taken, by insolvent debtors, before the said chief judge, and complied with the other provisions of the said act, was, by the order of the said chief judge, dated the 21st day of November aforesaid, discharged from imprisonment agreeably to the provisions of the said act; and whereas William Hayman, a creditor of the said Samuel Moxley, heretofore, to wit, on the 26th day of March, in the year 1832, and within two years next after the filing of the petition of the said Samuel Moxley aforesaid, did file certain allegations in the said circuit court against said Samuel Moxley, now of record in the said court, and the said Samuel Moxley having been duly summoned to answer to the said allegations, a copy of which was left with him, and he having failed to appear according to the said summons, and the court having proceeded to examine the truth of the said allegations, and being satisfied by evidence in the said cause, that the said Samuel Moxley had, within one year next before the filing of the petition of the said Samuel Moxley aforesaid, to wit, on the 23d day of August, in the year 1831, by his deed of that date, conveyed certain real and personal estate, in the said deed specified, the property of him the said Samuel Moxley, to one Samuel Chew, his heirs and assigns, with intent to give a preference to one Peter Ritter, a creditor of the said Samuel Moxley, in the payment of a debt due from the said Moxley to the said Ritter, as more fully appears by the said deed, a certified copy whereof is filed as of record in this cause:—It is, this seventh day of December, in the year 1836, ordered by the court, that the order, made by the chief judge of this court on the 21st day of November, in the year 1831, for the discharge of the said Samuel Moxley from imprisonment as an insolvent debtor agreeably to the act of congress, entitled, 'An act for the relief of insolvent debtors within the District of Columbia,' be, and the same is hereby rescinded. And that the said Samuel Moxley be,

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and he is hereby precluded from the benefit of the act of congress, entitled, 'An act for the relief of insolvent debtors within the District of Columbia.'”

¹ [Reported by Hon. William Cranch, Chief Judge.]