

1868.
Sept. 3.

Civil Petition.

BA'PURA'V KRISHNAPetitioner.
MA'DHAVRA'V RA'MRA'V *et al.*Opponents.

Execution of Decree—Limitation—Act XIV. of 1859, Secs. 19 and 20.

M. and others obtained a decree in the Court of the Agent for the Sardárs. This decree was, in special appeal, confirmed by the High Court.

Held that the period of limitation for the execution of the decree commenced to run from the date of the decree (in special appeal) in the High Court, and not from the date of the decree in the court below.

A decree of the High Court in its appellate jurisdiction, as a decree made by a court established by Royal Charter, falls under Sec. 19, and not under Sec. 20, of Act XIV. of 1859, and is, therefore, subject to the twelve years' limitation.

IN this case Mádhavráv Rámráv and others obtained a decree against the petitioner, Bápúráv Krishṇa, in the Court of the Agent for Sárdars in the Dakhan, on the 10th of July 1863.

This decree was confirmed by the High Court, in Special Appeal No. 127 of 1864, on the 12th of July 1864.

On the 11th of July 1867 the plaintiffs applied for the execution of the Agent's decree, but the Acting Assistant Agent, J. Jardine, refused the application, on the ground that it was barred by the law of limitation. The Agent, F. Lloyd, however, ordered the decree to be executed, stating that the application for execution was within three years from the date of the High Court's decree, and that it had been repeatedly ruled by the High Court at Calcutta that the period of three years' limitation (Act XIV. of 1859, Sec. 20) dated from the final judgment: *Hwee Bungsho Bannerjee v. Ramessur Bannerjee* (a), which in this case was the High Court's decree of the 12th of July 1864; and that, even if the application were not presented within three years from the date of the High Court's decree, the execution would not be barred, as it had been ruled that decrees passed by the High Court on the Appellate side were not affected by Act XIV. of 1859, Sec. 20, inasmuch as, under Sec. 19 of that Act, such decrees could be executed at any time within

twelve years from the date thereof: *Kishen Kinkur Ghose and others v. Buroda Kant Roy and another* (b). Thereupon Bápúráv presented a petition to the High Court praying that the Agent's order should be set aside, on the grounds (1) that he (the Agent) had ordered the execution of a time-expired decree; (2) that he had confounded the periods of limitation applicable to the execution of decrees of the High Court and of the subordinate courts; and (3) that the execution sought was the execution of the Agent's decree, and not that of the High Court.

1868.
BA'PURA' V
KRISHNA
v.
MA'DHAVRA' V
RA'MRA' V
et al.

The case was heard this day before NEWTON and TUCKER, JJ.

Vishvanáth Náráyan Mandlik for the petitioner.

Dhirajlál Mathurádás for the opponents.

NEWTON, J.:—If the operative part of the High Court's decree is sought to be executed, the twelve years' limitation will apply to it, under Sec. 19 of Act XIV. of 1859; and I am of opinion that when we confirm the lower court's decree, it is embodied in ours. In this case I hold that the application was substantially to execute the substantial part of the High Court's decree. I agree with the rulings of the High Court of Calcutta, as stated by the Agent, and would not, therefore, interfere.

TUCKER, J.:—I concur.

Petition rejected.

(b) 8 Calc. W. Rep., Civ. R. 470.

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Civil Petition.

NA'GA'PPA' bin HULGAPPA' *Applicant.*

Nov. 12.

Practice—Extraordinary Applications—Copy of Orders passed by Lower Courts.

All applications to the High Court in the exercise of its extraordinary Civil Jurisdiction should be accompanied by a copy of the orders of the lower courts made in respect of the matter of such application, and should be presented within the time allowed for the presentation of special appeals.

IN this case the petitioner applied to the Munsif of Mudebihál, in the Kaládghi District, to obtain a division of