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*Before Sir Charles Sargent, Kt., Chief Justice, and
Mr. Justice Birdwood.*

KASHINATH TRIMBAK JOSHI (*Applicant*) v. DUMING ZURAN
(*Opponent*)* [11th February, 1892.]

Limitation—Civil Procedure Code (Act XIV of 1882), s. 318—Purchaser at Court sale—Certificate of confirmation of sale—Application for possession of purchased property—Date of accrual of right to apply for possession.

The right of a purchaser to apply for possession under s. 318 of the Civil Procedure Code (Act XIV of 1882) accrues to him when the certificate "has been [229] granted,"—that is to say, when it has been issued to him, and the period of limitation for such an application is to be computed from that day.

[Diss., 30 A. 390 (391)=5 A.L.J. 516=28 A.W.N. 162; 15 M.C.C.R. 58 (59); Appr., 32 M. 136=19 M.L.J. 224 (226)=4 M.L.T. 350.]

THIS was a reference made by Rao Saheb Ramchandra V. Patki, Second Class Subordinate Judge of Bassein in the Thana District, under s. 617 of the Civil Procedure Code (Act XIV of 1882).

The applicant, Kashinath Trimbak Joshi, purchased certain immoveable property at a Court sale on the 13th February, 1888, and the sale to him was confirmed on the 18th April, 1888. On the 7th October, 1890, he applied for a certificate under s. 316 of the Civil Procedure Code (Act XIV of 1882), which was granted to him on the 13th February, 1891, and was issued to him on the same day. He subsequently presented an application to obtain possession of the property under s. 318 of the Civil Procedure Code. The Subordinate Judge referred the following question for decision:—

"Should the period of limitation for the application to recover possession be counted from the day on which the certificate was actually issued to the applicant, or should it be counted from the date on which the sale was confirmed?"

The opinion of the Subordinate Judge was that the period of limitation should be counted from the date of the confirmation of the sale.

There was no appearance for the parties.

OPINION.

SARGENT, C.J.—The right of a purchaser to apply for possession under s. 318 of the Civil Procedure Code accrues to him when the certificate "has been granted,"—that is to say, when it has been issued to him. See *Motichand Tarachand v. Naikjibin Gopalji* (1).

Order accordingly.

* Civil Reference No. 22 of 1891.

(1) P. J. 1886, p. 46.