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that time, and, therefore, their income, if they can be said to have had an income, was chiefly derived from agriculture. That was because they depended upon their father for their livelihood. But dependence for livelihood upon another who is an agriculturist is not the same thing as earning livelihood for oneself by agriculture. To earn livelihood by agriculture is to obtain the means of livelihood by it: *Dwarkojirav Baburav v. Balkrishna Bhalchandra*<sup>(1)</sup>. Upon the ground that there is no evidence whatever to show that the minors earned their livelihood by agriculture at the time the liability was incurred, the decree must be reversed and the case sent back to the Subordinate Judge to be dealt with on the merits according to law with reference to the observations in this judgment.

Costs hitherto incurred to be costs in the cause.

*Decree reversed.*

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(1) (1894) 19 Bom. 255.

## CIVIL REFERENCE.

*Before Mr. Justice Chandavarkar and Mr. Justice Batchelor.*

BHAGWANT RAMCHANDRA SHAHAPURKAR, PLAINTIFF, v. KAJI MAHAMAD ABAS WALAD KAJI MAHAMAD RUKMODIN, DEFENDANT.\*

*Civil Procedure Code (Act V of 1908), section 48—Limitation Act (IX of 1908), section 9—Minor—Extension of time—Decree—Execution.*

A decree obtained on the 17th February 1898 was sought to be executed in 1901 by the decree-holder. As the decree-holder died thereafter leaving a minor son, further applications to execute the decree were filed by the minor's guardian, all within time. The minor attained majority in 1910. He then applied for the extension of the period of twelve years for the execution of the decree prescribed by section 48 of the Civil Procedure Code of 1908, on the ground of his minority between 1901-1910.

*Held*, that the period could not be extended under section 48 of the Civil Procedure Code, 1908, for once the limitation began to run from the date of the decree, the twelve years' period must be computed from that date.

\* Civil Reference No. 11 of 1911.

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THIS was a reference made under Order XLVI, Rule 1, of the Civil Procedure Code of 1908, by R. G. Bhadbhade, Judge of the Court of Small Causes at Poona.

The decree sought to be executed was obtained by the applicant's father on the 17th February 1898. He made one application for execution thereof in 1901. Since then, he having died, the applicant, who was a minor son of the decree-holder, made several applications for execution through his guardian within three years of each other. He reached majority in 1910. After this, he applied for extension of the period of twelve years for the execution of the decree, prescribed by section 48 of the Civil Procedure Code, on the ground of his minority between 1901-1910.

On these facts, the question that arose for determination was whether section 9 of the Limitation Act applied to the case. The Subordinate Judge felt a doubt as to the determination of the question. He, therefore, referred it to the High Court. His opinion on the question referred was in the affirmative, on the following grounds:—

“The case relied on by the applicant's pleader, I. L. R. 16 Bom. 536, is not in point as it refers only to a decree obtained by a minor. The point now raised is touched upon in I. L. R. 20 Cal. 714, *Lolit Mohun v. Janokhy Nath*, at p. 716, and is put in the form of a *quaere* by Mr. Starling in his Commentary on section 6 of the Limitation Act (new edition), p. 46. Mr. Starling at p. 62 in his note to section 9 also refers to a Punjab case in which it appears to have been held that section 9 of the Limitation Act does not apply to applications.

“As Article 182, Schedule I, of the Limitation Act is expressly made applicable to execution of decrees not provided for by section 48 of the Civil Procedure Code, I think section 9 of the Limitation Act ought to be applied to the twelve years' period.”

The reference was heard.

*Nilkanth Atmaram*, *amicus curiæ*, for the plaintiff.

*S. S. Patkar*, *amicus curiæ*, for the defendant.

The following cases were referred to in arguments:—*Moro Sadashiv v. Visaji Raghunath*<sup>(1)</sup>; *Veeramma v. Abbiah*<sup>(2)</sup>; *Bihari Lal v. Baness*<sup>(3)</sup>; and *Jivraj v. Babaji*<sup>(4)</sup>.

(1) (1891) 16 Bom. 536.

(3) (1889) P. R. No. 109 of 1889 (Civ.).

(2) (1894) 18 Mad. 99.

(4) (1904) 29 Bom. 68.

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CHANDAVARKAR, J. :—We are indebted to each of the pleaders for appearing in this reference as *amicus curiæ*. Mr. Nilkanth has placed before us all the available authorities on the point and argued the Reference in support of the plaintiff. But we are of opinion that our answer to the Reference must be that the claim is barred by the law of limitation prescribed in section 48 of the Code of Civil Procedure. We agree with the Subordinate Judge in the view he has taken, namely, that the decree having been obtained by the plaintiff's father and time having once begun to run under section 9 of the Limitation Act, no subsequent disability, that is, the minority of the plaintiff, could arrest it. Once the limitation began to run from the date of the decree, the twelve years' period must be computed from that day. The point is practically decided by this Court in *Jivraj v. Babaji*<sup>(1)</sup>. With this answer the Reference must be returned to the Subordinate Judge.

*Answer accordingly.*

R. R.

(1) (1904) 29 Bom. 68.

## APPELLATE CIVIL.

*Before Mr. Justice Chandavarkar and Mr. Justice Batchelor.*

1912.

January 11.

RAMCHANDRA SHIVAJIRAM AND ANOTHER (ORIGINAL DEFENDANTS), APPELLANTS, v. TAMA, WIDOW OF RAGHO MANGLIYA (ORIGINAL PLAINTIFF), RESPONDENT.\*

*Transfer of Property Act (IV of 1882), section 107—Lease exceeding one year—Registration—Unregistered lease cannot be received as evidence—Evidence Act (I of 1872), section 91—Oral evidence of the lease cannot be given—Tenant admitting landlord's title—Amount of rent can be proved by other evidence—Parties—Admission—Estoppel—Practice.*

The plaintiff owned a one-third share in certain salt-pans, which share was during her minority leased by her guardians for a period of three years at an annual rental of Rs. 500. The plaintiff having attained majority, she at the expiration of the period, let her share to the same lessees for a further period of two years at the

\* Second Appeal No. 94 of 1911.