

1876.
 ZINULABDIN
 ROWFEN
 v.
 VIJIEH
 VIRAPATREN.

the following persons :—“ All persons holding under a Sunud-i-Milkeut Istimrar, all other Zemíndárs, Shrotriemdars, Jaghir-dars, Inamdars, and all persons farming lands from the above persons, or farming the land revenue under Government. Also all holders of land under Ryotwar settlements, or in any way subject to the payment of Land Revenue direct to Government, and all other registered holders of land in proprietary right.” The term “ farmer ” is not used in its ordinary English sense of one who himself cultivates land, but in the sense in which it is employed in France—a meaning given to it when we speak of farmers of revenue. Farmers under the Act are men who contract to take all the profits of certain lands, and to pay a specified sum to the person from whom they take. “ Landholder ” includes direct descendants of those named in Section 1 of the Act. This man is not a direct descendant of any Zemíndár, Shrotriemdars, &c. He is, therefore, not a “ landholder ” under the Act. That seems to dispose of this case. The appeal must be dismissed with costs.

KINDERSLEY, J., concurred.

Appeal dismissed with costs.

APPELLATE CIVIL.

Before Mr. Justice Holloway and Mr. Justice Kindersley.

PASUPATI LATCHMIA (PETITIONER) v. PASUPATI MUTHAM-BHATLU (COUNTER-PETITIONER),*

Execution—Limitation—Adjective Law.

1876.
 June 8.

Execution is a proceeding to enforce a decree of a Court, and comes under the head of purely adjective law. Such being the case, the law of limitation prevailing at the time of the application must govern.

THE counter-petitioner sought in 1875 to execute a decree in a suit instituted before the 1st April 1872, the last application for execution having been made on the 23rd February 1872. The Judgment debtor contended that the present application came

* Civil Miscellaneous Regular Appeal No. 33 of 1876, against the order of the Acting District Judge of Nellore, dated the 11th November 1875.

under the provisions of Act IX of 1871, and that, more than three years having elapsed from the date of the last application, the present one was barred. The Acting District Judge of Nellore held that "the suit having been instituted before April the 1st of 1873, the old Limitation Act is applicable, and the time begins to run from the close of the last proceedings, and this application is not barred." The learned judge then proceeds to dispose of the contention of the Judgment debtor that the decree had been satisfied.

From this order the Judgment debtor appealed to the High Court, where the only question argued was whether the application for execution was barred or not.

Rama Row for the petitioner, contended that it was not. *The Collector of South Arcot v. Thatha Charry*, (1)

Rungaya Naidu for the counter-petitioner, contended that it was *Naranappa Aiyar v. Namma Ammal*. (2)

HOLLOWAY, J.—The point in this case has been frequently decided. The question is whether the suit having been decided while the old Limitation Act was in force has the quality of keeping all proceedings under it within the provisions of the old Limitation Act or of the new Act. The ordinary rule is very plain. In all matters of substantive law, the law of limitation in force at the period of the arising of the right, governs. In all cases of adjective law, the law of limitation in force at the period of enforcement, governs. In some cases questions of substantive law appear in the disguise of questions of adjective law. Execution however is a proceeding to enforce a decree of a Court, and comes under the head of purely adjective law. Such being the case, clearly the law prevailing at the time of the application must govern. Here that law is the new Limitation Act, and the proceeding is therefore, barred,

. KINDERSLEY, J. concurred.

Order reversed with costs.

(1) 8 Madras H. C. Rep., p. 49.

(2) Ibid., p. 97.