

DEVAJI  
v.  
RAMAKRISH-  
NIAH.

otherwise than on demand, can be stamped with an adhesive stamp." Our answer is that it cannot, because the stamp required is more than one anna.

The words "drawn or made out of British India" in Clause 'b' of Section 10 of the Stamp Act of 1879 apply to the entire clause. The defendant will have the costs of this reference:

## APPELLATE CIVIL.

*Before Mr. Justice Kernan and Mr. Justice Forbes:*

1880.  
November 25.

VENKATARAYALU (APPELLANT) v. NARASIMHA AND 5 OTHERS  
(RESPONDENTS).\*

*Decree—Execution—Limitation—Act XV of 1877, Art. 179, Cl. 2.*

Plaintiff obtained a decree against defendant on the 24th November 1876 and on the 14th October 1876 he got execution and sold some lands of the defendant. On 9th February 1877 he applied to the Court for payment thereof of monies lodged by the purchaser and got on that day the money.

In the meantime an appeal was presented by the defendant and dismissed on the 28th March 1877. The present application for execution was made on the 7th February 1880.

*Held* that Article 179, clause 2 of the Limitation Act of 1877, which fixes the date of the order of the Appellate Court, when there is an appeal, as the point from which the three years is to count, applied, and that the plaintiff was therefore in time. When there is no appeal the date of the decree or of application is the point from which limitation counts, but not when there is an appeal.

*Held* further, that the application by plaintiff to the Court (9th February 1877) for the money paid in by the purchaser was a step taken to aid in the execution of the decree.

*C. Ramachandra Rau Saib* for the Appellant.

*S. Gopalachari* for the Respondents.

The facts of this case appear sufficiently from the judgment of the Court (KERNAN and FORBES, JJ.)

JUDGMENT.—We think that the plaintiff is not barred by limitation from executing the decree of 24th November 1876.

On the 14th October 1876 he applied for and got execution and sold some lands; and on the 9th of February 1877 he applied by his Vakil to the Court for payment thereof of Rs. 148 lodged there by the purchaser and he got on that day the money.

\* Civil Miscellaneous Second Appeal No. 447 of 1880 against the order of G. A. Parker, District Judge of Chingleput, dated the 24th June 1880, confirming the order of the Court of the District Munsif of Poonamallee dated 8th April 1880.

In the meantime an appeal was presented by the defendant and that appeal was dismissed on the 28th of March 1877.

VENKATA-  
RÁYALU  
v.  
NARASIMMA.

Then present application for execution was made on the 7th February 1880. Clause 2, Article 179 of the Limitation Act of 1877 fixes the date of the order of the Appellate Court, when there is an appeal, as the point from which the three years is to count.

On this ground the plaintiff is in time.

Defendant contends that when, as in this case, execution has been applied for before the date of the Appellate Court's decree, then the latter is to be held not the point to count from but the application for execution is the proper point. We do not see any foundation for this contention. It seems to us that when there is no appeal, the date of the decree or of application is the point, but not when there is an appeal.

Moreover it appears to us that the application by plaintiff to the Court for the money paid in by the purchaser is a step taken to aid in the execution of the decree.

We reverse the orders of the Lower Courts and direct that the plaintiff shall have execution according to law with costs in the Lower Courts and in this Court.

*Appeal allowed.*

---

## APPELLATE CIVIL.

*Before Sir Charles A. Turner, Kt., Chief Justice, and Mr. Justice Muthusami Ayyar.*

SAMMANATHA PANDARA (2ND DEFENDANT), APPELLANT, v.  
SELLAPPA CHETTI (PLAINTIFF), RESPONDENT.\*

1879.  
April 7th.

*Debt contracted by the head of a mattam—Liability of the successor in office.*

The property belonging to a Mattam is in fact attached to the office of Mattam-dár, and passes by inheritance to no one who does not fill the office. Though it is in a certain sense trust property, the superior has large dominion over it, and is not accountable for its management nor for the expenditure of the income, provided he does not apply it to any purpose other than what may fairly be regarded as in furtherance of the objects of the institution. Acting for the whole institution, he

---

\* Appeal No. 35 of 1877 against the decree of the Subordinate Court of Tinnevely, dated 18th December 1876.