

under s. 20, Regulation V of 1804. Further objections are raised as to the publication and conduct of the sale.

We merely indicate these as some of the points which will require the attention of the Judge in framing fresh issues. The appeals of the Collector (No. 130) and of defendants Nos. 2 and 3 (No. 127) must be allowed and the decree of the Lower Court reversed. The names of plaintiffs Nos. 3 and 4 must be restored to their original positions in the suit, which must be retried on the merits after framing fresh issues. The respondents must pay the costs of these appeals, but the costs in the Lower Court will abide and follow the result.

KRISHNA
S.
MEKAM-
PERUMA.

APPELLATE CIVIL.

*Before Sir Arthur J. H. Collins, Kt., Chief Justice, and
Mr. Justice Parker.*

JIVRÁJI (JUDGMENT-DEBTOR), PETITIONER,
and

PRAGJI (DECREE-HOLDER), RESPONDENT.*

1886.
Sept. 24.

Civil Procedure Code, ss. 203, 622—Error of law—Application to bring decree into conformity with judgment—Limitation Act not applicable.

Applications to the Court under s. 206 of the Code of Civil Procedure are not governed by the Limitation Act.

A Small Cause Court rejected an application made under s. 206 of the Code of Civil Procedure to bring a decree into conformity with the judgment, on the ground that a former application had been dismissed for default and the petitioner was bound to apply within one month from the date of dismissal and was now too late. On an application to the High Court under s. 622 of the Code to set aside this order :

Held that the High Court could not interfere.

APPLICATION under s. 622 of the Code of Civil Procedure to set aside an order of the Subordinate Judge of North Malabar, made in Small Cause suit 722 of 1885.

Khimji Jivráji Shett, defendant No. 1 in the suit, applied under s. 206 of the Code of Civil Procedure to have the decree amended and brought into conformity with the judgment by reducing the amount of the decree from Rs. 446-7-3 to Rs. 239-7-0.

JIVRAJI
v.
PRAGJI.

The Judge rejected the application, on the ground that two former applications for the same purpose made to the Judge who passed the decree had been dismissed for default and that petitioner should have, and had not, applied within one month from the date of the dismissal of the first application.

Srinivāsa Rāu for petitioner.

The second application was not dismissed for default, nor does the Limitation Act apply (Referred case 18 of 1885).

Mr. *Wedderburn* for Purushotam Dass Pragji Shett, respondent.

This court has no jurisdiction to entertain this application. The error of the Judge, if any, was an error of law, viz., that the application was barred by limitation—*Amir Hassan Khan v. Sheo Baksh Singh*. (1) If the second application was not dismissed, the proper course was to proceed with it, and, in that case, this application was properly rejected.

The Court (Collins, C.J., and Parker, J.) delivered the following

JUDGMENT:—Though the Subordinate Judge states that both the previous applications were dismissed for default, there is nothing on the record or the diary to show that the application of 5th December 1883 was ever disposed of, or when it was disposed of. If it had not been disposed of, the Subordinate Judge should have taken it up again and heard the application.

If that application was dismissed for default, there is nothing to prevent the Subordinate Judge hearing another application to amend the decree. It has been held in referred case No. 18 of 1885 (not reported) that it is a ministerial function to bring the decree in accordance with the judgment, and that there is no period of limitation—see also *Vithal Janardan v. Vithojirāv Putlajirāv*. (2) This, however, is an error in law which will justify an application for review, but not one under s. 622 of the Code of Civil Procedure.

We therefore dismiss this petition with costs.

(1) I.L.R., 11 Cal., 6.

(2) I.L.R., 6 Bom., 583.