

As regards the third and last objections we are of opinion that the *wuqf* being found to be a legal and valid one, it is really immaterial for the purposes of this suit to enquire how the proceeds of the property have since been applied. For no amount of misappropriation or other misconduct on the part of the manager can alter the character of the *wuqf* or render it void.

That being so, we hold that the decree of the lower Court was right, and we dismiss the appeal with costs.

This judgment will also govern Appeal No. 52 of 1881.

*Appeal dismissed.*

*Before Mr. Justice White and Mr. Justice Macpherson.*

MON MOHUN BUKSEE (DECREE-HOLDER) v. GUNGA SOONDERY  
DABEE (JUDGMENT-DEBTOR).\*

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April 17.

*Execution of Decree—Minor Plaintiff—Application for Execution by  
Guardian—Limitation Act (XV of 1877), s. 7.*

A plaintiff, who has obtained a decree during his minority, has the option either of applying through his guardian to execute the decree during his minority or to wait until the expiration of his minority before executing his decree. The application of the guardian is the application of the infant. The minor is under disability during the whole period of his minority. His disability does not cease, because he, through his guardian, makes two or more applications for execution however long the interval between them, provided they are all made during his minority.

Baboo *Issur Chunder Chuckerbutty* for the appellant.

Baboo *Kissory Mohun Roy* and Baboo *Mohiny Mohun Roy*  
for the respondent.

THE facts of this case sufficiently appear from the judgment of the Court (WHITE and MACPHERSON, JJ.), which was delivered by

WHITE, J.—The Court below held that the execution was not barred by the law of Cooch-Bihar, but that it was so by the law of British India, that being the law of the Court in

Appeal from Appellate Decree, No. 342 of 1881, against the order of F. J. G. Campbell, Esq., Judge of Rungpore, dated the 3rd September 1881, reversing the order of Baboo Denobundhoo Roy, Munsif of Kooréegram, dated the 3rd May 1881.

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which the judgment was sought to be enforced, and the law defining the limitation for suits being part of the *lex fori*.

On appeal before us it is argued, that, assuming the question to be determinable by the Limitation Act now in force in British India (Act XV of 1877), yet by that Act the execution is not barred, for the plaintiff (the decree-holder) is a minor, and as such under disability, and therefore time does not run against him during his minority. It is not disputed that the decree-holder is a minor; and accordingly, under s. 7 of the Act, until his minority has ceased, he is not affected by the law of limitation. It is contended, however, for the respondent that, upon the true construction of s. 7, the minor must wait until he attains majority before suing out execution, and that, until then, he cannot, through his guardian, take any steps to enforce his decree. This contention is unsound, and is disposed of by the judgment of the Privy Council upon the corresponding section of the old Limitation Act, XIV of 1859, in the case of *Mussumat Phoolbas Koonwur v. Lalla Jogeshur Sahoy* (1). A plaintiff, who has obtained a decree during his minority, has the option either of applying through his guardian to execute the decree during his minority, or to wait until the expiration of his minority before enforcing his decree.

Another point was attempted to be argued, that, if the guardian of a minor commenced to execute the decree on his behalf during the minority, all subsequent applications by that guardian on the minor's behalf must be governed by the law of limitation. This argument also is unsound. It assumes, contrary to the law on the subject, that the application of the guardian is not the application of the infant, but something distinct. The minor is under a disability during the whole period of his minority. His disability does not cease, because he, through his guardian, makes two or more applications for execution, however long the interval between them, provided they are all made during the minority.

The order of the Judge is reversed, and that of the Munsif restored with costs in this Court and also in the lower Appellate Court.

*Appeal allowed.*

(1) L. R., 3 L. A., 26-26.