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affording another period of limitation for that portion of the claim, but this view is erroneous, both decrees cannot be final within the meaning of the limitation law. We reverse the order of the lower Court and remand the case for execution in due course. Costs to abide the result.

Cause remanded.

APPELLATE CIVIL.

Before Mr. Justice Pearson and Mr. Justice Turner.

LACHMAN BIBI AND ANOTHER (DECREE-HOLDERS) v. PATNI RAM AND ANOTHER
(JUDGMENT-DEBTORS).*

Decree made in favour of a Firm in name of Agent—Applications for Execution made by Agent other than Agent named in the Decree—Effect of such Applications to keep the Decree in force—Limitation—Act IX of 1871 (Indian Limitation Act), sch. ii, art. 167.

A decree was passed in favour of a firm in the name of an agent of the firm. The second and subsequent applications for execution were made by an agent of the firm other than the agent named in the decree. Certain persons, alleging that they were the proprietors of the firm, applied for execution of the decree. The application was refused on the ground that the proceedings in execution taken by the last-mentioned agent were invalid and execution of the decree was therefore barred by limitation. *Held* that such proceedings, however irregular, were not invalid.

THIS was an application for execution of a money-decree dated the 10th May, 1870. This decree was passed *ex parte* in the name of Kishn Lal, described as the agent of the firm of Megh Raj Herbilas. On the date it was passed application for execution was made by Kishn Lal. A second application was made on the 8th December, 1871, by one Mohan Lal, who had succeeded Kishn Lal as agent of the firm of Megh Raj Herbilas. A third and fourth was made by the same person on the 30th May, 1872, and the 13th April, 1875, respectively. The present application was made on the 15th February, 1877, by Lachman Bibi and Katu Bibi alleging themselves to be the proprietors of the firm of Megh Raj and Herbilas the decree-holders. The judgment-debtors objected to the execution of the decree on the ground, among other grounds, that the former applications for execution made by Mohan

*Miscellaneous Special Appeal, No. 66 of 1877, from an order of J. W. Power, Esq., Judge of Gházipur, dated the 4th August, 1877, reversing an order of Maulvi Zain-ul-Abdin, Subordinate Judge of Gházipur, dated the 3rd July, 1877.

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Lal were insufficient to keep the decree in force, as he was not the decree-holder, and execution of the decree was therefore barred by limitation. The Subordinate Judge disallowed this objection. On appeal by the judgment-debtors it was allowed by the Judge, who observed as follows : " The application made to the Court on the 8th December, 1871, was not made by the decree-holder then on the record, *viz.*, Kishn Lal, but by another person, it was therefore not a petition to execute the decree, and as all the other applications for execution were made by persons other than the decree-holder execution of the decree must be considered barred."

Lachman Bibi and Katu Bibi appealed to the High Court contending that the Judge erred in holding that Kishn Lal was himself the decree-holder, that the decree itself showed that it belonged to the firm of which the appellants were proprietors, that proceedings in execution of the decree were taken by the appellants from time to time in the name of their agent for the time being, and there was no reason in law why they should not take out execution and execution was not barred by limitation.

Munshi *Hanuman Prasad*, for the appellant.

The *Senior Government Pleader* (*Lala Juala Prasad*) and Pandit *Bishambhar Nath*, for the respondent.

The judgment of the High Court was delivered by

TURNER, J.—Owing to an error in procedure the decree was passed in the name of Kishn Lal, described as the agent of the firm of Megh Raj Herbilas, but it was then, as on subsequent occasions and is now, admitted that it was passed in favour of the firm of which the appellants assert they are and were the owners. The second and subsequent applications for execution, with the exception of the one now before the Court, were taken out by Mohan Lal, who succeeded Kishn Lal as the *gomashta* of the firm. However irregular the proceedings have been, we are not prepared to hold they are invalid. We must set aside the order of the Judge disallowing the application as barred by limitation, and remand the case for the decision of the other pleas raised. Costs of this appeal will abide and follow the result.

Cause remanded.