

in consequence of an appeal lying having been lodged in the Privy Council against the decree of the late Sudder Court, dated 31st March, 1864. The appeal was disposed of by the Privy Council's decree, dated 11th February, 1870.

If it be assumed that the application made by Ajudhia Singh alone on the 7th September, 1871, for the execution of a small part of the decree was within time, under art. 167, sch. ii, Act IX of 1871, as having been presented within three years from the date of the Privy Council's decree, it must, nevertheless, be held that, inasmuch as it prayed for the partial execution of a joint decree, it was not an application according to law and had not the effect of keeping the decree in force. The same remark applies to Ajudhia Singh's last application of 13th August, 1874.

The present application by Ajudhia Singh and others of the 20th May, 1875, is therefore beyond time. I would accordingly decree the appeal with costs, and reversing the lower Court's order disallow the application.

1876  


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 RAM ADTAR  
 v.  
 AJUDHIA  
 SINGH.

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## APPELLATE CIVIL.

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1876  
 June 1.

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(*Mr. Justice Turner and Mr. Justice Spankie.*)

PURAN MAL (DEFENDANT) v. ALI KHAN (PLAINTIFF).\*

*Act VIII of 1859, s. 260—Execution of Decree—Certified Purchaser.*

*A* sued for a declaration that *P*, the certified auction-purchaser of certain immoveable property, was merely a trustee for *R*, *A*'s judgment-debtor, that the purchase in *P*'s name was made with the intent of defeating or delaying him in the execution of his decree, and that he was at liberty to apply for execution against the property as the property of his judgment-debtor.

*Held*, following *Sohn Lall v. Gya Parshad*, H. C. R., N.-W. P., 1874, p. 265, that s. 260, Act VIII of 1859, was in no way a bar to the suit.

As this case merely follows the decision in *Sohn Lall v. Gya Parshad*, it is not reported in detail.

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\* Regular Appeal, No. 18 of 1875, from a decree of the Subordinate Judge of Bareilly, dated the 26th February, 1876.