

Before Mr. Justice Pearson and Mr. Justice Spankie.

1879  
April 23

KADIR BAKHSH (DECREE-HOLDER) v. ILAHI BAKHSH AND ANOTHER  
(JUDGMENT-DEBTORS). \*

*Execution of Decree—Powers of the Court in executing transmitted decree—Act X of 1877 (Civil Procedure Code), ss. 228, 232—Transfer of Decree.*

Where a decree was sent to a Court for execution, and was subsequently transferred by assignment, and the transferee applied for the execution of the decree to the Court to which the decree was sent for execution, held that such application should be made not to such Court but to the Court which passed the decree.

THE decree in this case had been sent by the District Court at Cawnpore to the District Court at Aligarh for execution, and the District Court at Aligarh had directed the Subordinate Judge of Aligarh to execute the decree. On the 7th June, 1878, the decree having been transferred by assignment, and the transferee having applied to the Subordinate Judge of Aligarh for its execution, the judgment-debtors objected to the application being made to the Subordinate Judge of Aligarh, contending that it should be made to and be disposed of by the Court which passed the decree. The Subordinate Judge of Aligarh over-ruled this objection. On appeal by the judgment-debtors the lower appellate Court allowed the objection.

The decree-holder appealed to the High Court, contending that the Subordinate Judge had the same powers under s. 232 of Act X of 1877 as the Court which passed the decree.

Mr. Conlan and Pandit *Ajudhia Nath*, for the appellant.

The respondents did not appear.

The judgment of the Court was delivered by

PEARSON, J.—We see no sufficient reason to interfere with the lower appellate Court's decision which is in conformity with the terms of the law, and is supported by this Court's ruling dated the 20th December, 1870 (1). The appeal is therefore dismissed.

*Appeal dismissed.*

(1) Unreported.

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\* Second Appeal, No. 131 of 1878, from an order of G. E. Watson, Esq., Judge of Aligarh, dated the 9th November, 1878, reversing an order of Maulvi Farid-uddin Ahmad, Subordinate Judge of Aligarh, dated the 3rd July, 1878.