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RAJ
BAHADUR.

Har Dyal was one of three persons against whom a Munsif's judgment and decree were passed. Appeals by him and against him were instituted, and by reason of his death and the failure to put upon the record his representatives the appeals abated. The claim of the decree-holder is that he is in time in taking proceedings. The decree-holder claims to execute within three years from the date of that order of abatement. The decree of the Munsif is of a date beyond the three years' period. It appears to us that the appellant has no ground for that contention. According to Art. 179, the starting point for limitation is from the date of the decree or order of the Civil Court. It is the decree of the Munsif which he now seeks to execute: he contends, however, that clause 2 of column 3 of Art. 179 applies; the words are "where there has been an appeal, the date of the final order or decree of the Appellate Court." It is manifest to us that an order by which an appeal abates is not the final decree or order contemplated by that clause; it cannot be executed, and the only extant decree after the making of such an order is the original decree of the Munsif. The application is admittedly presented more than three years after the date of the Munsif's decree. This appeal is dismissed with costs.

Appeal dismissed.

APPELATE CRIMINAL.

Before Sir John Edge, Kt., Chief Justice and Mr. Justice Burdett.

QUEEN-EMPRESS v. BEER.*

Act No. VI of 1882 (Indian Companies Act) sections 55, 56—Company—Register of shareholders—Inspection—Refusal to allow inspection of register of shareholders.

Where a person who is entitled under the provisions of section 55 of the Indian Companies Act, 1882, to obtain inspection of the register of shareholders of a Company applies for inspection during business hours and not at a time when inspection is prohibited, either under section 56 or by reason of any rules framed by the Company under section 55, such inspection must be granted, and even a temporary refusal, based upon grounds of convenience to the Company's business, will render a director responsible for such refusal liable to the penalty provided for by section 55.

* Criminal Appeal No. 1117 of 1897.

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THE facts of this case are fully stated in the judgment of the Court.

The Government Advocate (Mr. *E. Chamier*) for the Crown.
Messrs. *D. N. Banerji* and *C. R. Alston* for the respondent.

EDGE, C J. and BURRITT, J.—This is an appeal by the Local Government against an order of acquittal passed by the Joint Magistrate of Cawnpore. The respondent A. Beer was a director of the Muir Mills Company, Limited, Cawnpore. Mr. Beer was present at the registered office of the Company on the 18th of March last. He was presiding as chairman at a meeting of share-holders which was held that day. At the termination of the meeting of the share-holders, Mr. McRobert, who was a share-holder of the Muir Mills Company, Limited, asked Mr. Beer if he (Mr. McRobert) could see the register of shareholders. Mr. Beer replied that it was not convenient that he should see the register. After a little Mr. Beer told Mr. McRobert that he could see the register next day. The ground given by Mr. Beer for not allowing Mr. McRobert to see the register when he applied was that they were about to hold a directors' meeting. As Mr. McRobert was leaving the room he said:—"Then you refuse to let me see the register"? Mr. Beer replied:—"I do not refuse you; you can see the books to-morrow morning." Mr. McRobert went away. Later on in the afternoon Mr. McRobert received a letter from the Company informing him that the books would be open to his inspection at any hour up to 5 P. M. that day, or upon any day between the hours of 9 A. M. and 12 noon and 2 and 5 P. M. Mr. McRobert in his evidence said that Mr. Beer knew that he (McRobert) was leaving Cawnpore. We do not think that that affects the question in the slightest degree, for we do not think that Mr. Beer intended absolutely to exclude Mr. McRobert from a reasonable inspection of the books. The question is whether Mr. Beer has brought himself within section 55 of the Indian Companies Act. Under section 55 every shareholder, without payment, and every member of the public, on payment, is entitled to inspect the register of Members of the

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Company during business hours, except when the register is closed under section 56, and "subject to such reasonable restrictions as the Company in general meeting may impose." The law wisely provides, however, that, where the Company does impose restrictions, the books shall be open to inspection for at least two hours during the business hours of each business day. The section was introduced into the Act not only for the protection of the shareholders, but for the protection of the public. Subject to the restrictions mentioned, it gives every share-holder an absolute right to inspect the register during business hours. If it be inconvenient for the carrying on the Company's business that the register should be kept open for inspection for the whole day during business hours, it is very easy for the share-holders in general meeting to put reasonable restrictions on the right of inspection, and it appears to us that one such reasonable restriction would be that the register should not be open to inspection at any time when the directors of the Company should be in meeting assembled, always provided that on such days two hours within business hours should be appointed for inspection of the register. We can well understand that it might have been exceedingly inconvenient for the directors, whilst their meeting was going on, to have inspection of the registers going on in another room. However, the shareholders in general meeting have not placed any restriction on the right of inspection. If this was a matter of reasonableness or of convenience, we should have come to the conclusion that Mr. McRobert was unreasonable, and that it was not convenient at the moment to grant inspection. However, he was strictly within his rights and he was entitled to inspection there and then, and Mr. Beer as a director made himself liable to a penalty under section 55 by reason of his authorising or permitting a refusal to Mr. McRobert to inspect the registers when he applied for inspection. Companies and directors must comply with the law. This seems to be the first case which has arisen in India on this point, and, although Mr. Beer acted illegally in refusing to give inspection to Mr. McRobert when

he asked for it, we do not think it is a case for imposing the full penalty. We find that Mr. Beer did authorize and permit a refusal of inspection of the register of members to Mr. McRobert during business hours on 18th March 1897, and that he was not justified in so doing, and we convict him and fine him the sum of eight annas. It must be remembered that if any case comes before us of a wilful and obstructive refusal when the demand was a reasonable one, we shall impose the full penalty.

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 APPELLATE CIVIL.

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Before Sir John Edge, Kt., Chief Justice and Mr. Justice Burkill.

ABDA BEGAM (DECREE-HOLDER) v. MUZAFFAR HUSEN KHAN (JUDGMENT-DEBTOR)*

Civil Procedure Code, section 223—Execution of decree—Certificate of execution—Jurisdiction of Court to which a decree is transferred for execution.

The Court to which a decree is sent for execution retains its jurisdiction to execute the decree until the execution has been withdrawn from it, or until it has fully executed the decree and has certified that fact to the Court which sent the decree, or has executed it so far as that Court has been able to execute it within its jurisdiction and has certified that fact to the Court which sent the decree, or until it has failed to execute the decree and has certified that fact to the Court which forwarded the decree. The mere striking off of an application for execution on the ground of informality in the application does not terminate the jurisdiction of the Court to execute the decree, nor render it necessary for the Court to send any certificate to the Court which forwarded the decree for execution. *J. G. Bagram v. J. P. Wise* (1) followed.

THE facts of this case sufficiently appear from the judgment of the Court.

Pandit *Baldeo Ram Dave*, for the appellant.

Pandit *Moti Lal*, for the respondent.

EDGE, C. J. and BURKITT J. :—The appellant before us obtained a decree for money in the Court of the Judicial Commissioner of Oudh. On the application of the decree-holder the decree was

*First Appeal No. 16 of 1897 from an order of Rai Kishan Lal, Subordinate Judge of Cawnpore, dated the 5th December 1896.

(1) 1 B. L. R., F. B. 21.