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dismissed the suit, and his decision was affirmed on appeal by the learned District Judge. The plaintiff comes here in Second Appeal. The Courts below held that the plaintiff ought to have objected in the execution proceedings that the 5 biswas and 16 biswansis were in excess of the rights and interests which the decree ordered to be sold. Had the decree specifically ordered the sale of 5 biswas 16 biswansis the case relied on by the learned vakil who appears in support of this appeal, namely *Sanwal Das v. Bismillah Begam* (1), would have been in point. But in my judgment the learned District Judge rightly distinguishes that case. That was a case in which the decree ordered the sale of the specific property, and not as in this case of undefined rights and interests. The learned vakil argues that his client could not in the execution proceedings have objected that the share of the judgment-debtors was wrongly estimated. In my opinion he not only could but ought to have done so. The case relied on by the learned vakil for the respondent—*Malkarjun v. Narhari* (2)—in my opinion supports the conclusion at which the lower Courts have arrived. I think the plaintiff's suit was rightly dismissed, and I dismiss this appeal with costs.

Appeal dismissed.

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July 27.

Before Sir John Stanley, Knight, Chief Justice, and Mr. Justice Aikman.

BAKAR SAJJAD (JUDGMENT-DEBTOR) v. UDIT NARAIN SINGH
(DECREE-HOLDER).*

Civil Procedure Code, section 235—Execution of decree—Application for execution verified by general attorney of decree-holder.

Held that an application for execution of a decree which is verified by the general attorney of the decree-holder, who has satisfied the executing Court that he is acquainted with the facts of the case, is properly verified within the meaning of section 235 of the Code of Civil Procedure, notwithstanding that his principal may be residing within the jurisdiction of the Court. *Murari Lal v. Umrao Singh*, (3) distinguished.

UDIT NARAIN SINGH applied for execution of a decree held by him against Bakar Sajjad. The judgment-debtor objected on the ground that execution was barred by limitation; but his objection was disallowed by the Subordinate Judge, and on

* Appeal No. 3 of 1903, under section 10 of the Letters Patent.

(1) (1897) I. L. R., 19 All., 480. (2) (1900) I. L. R., 25 Bom., 337.

(3) (1901) I. L. R., 23 All., 499.

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appeal filed by him was dismissed by the District Judge. The judgment-debtor thereupon appealed to the High Court, raising, in addition to the plea of limitation, a plea that the "application for execution of decree was invalid, being signed and verified by the general attorney of the respondent who resided within the jurisdiction of the Court below." The appeal came before Banerji, J., sitting in single Bench, who disposed of it by the following judgment :

"This appeal must fail. The judgment of the Court of first instance, which has been produced to-day, shows that the application for execution which is impugned in this case was verified by the general attorney of the decree-holder, who had satisfied the Court by an affidavit that he was acquainted with the facts of the case. An application for execution may be verified by a person other than the decree-holder who is acquainted with the facts of the case, so that the application for execution in this case was in accordance with law, and the Courts below have rightly held it to be so. The ruling in *Murari Lal v. Umrao Singh* (1), upon which the learned vakil for the appellant relies, has no application, inasmuch as in that case the application for execution was made by a person who was not the recognised agent of the decree-holder. Such is not the case here. I accordingly dismiss the appeal."

From this judgment the judgment-debtor appealed, urging the same plea which had been taken before the Single Judge, namely that the application for execution was bad in law in that the general attorney of the respondent decree-holder who resided within the jurisdiction of the Court was not competent to make it.

Munshi *Gulzari Lal*, for the appellant.

Mr. *A. E. Ryves*, for the respondent.

STANLEY, C. J., and AIKMAN, J.—We think our learned colleague was perfectly right in the view he took. We cannot accept the argument of the learned vakil who appears in support of the appeal, that only the decree-holder or his recognised agent can verify an application for execution of a decree. That is not the meaning of section 235 of the Code of Civil Procedure. It was found by the Judge from whose judgment this appeal has been made that the application was duly presented by a recognised agent. This appeal fails and is dismissed with costs.

Appeal dismissed.

(1) (1901) I. L. R., 23 All., 499.