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granted, it shall grant the same and the Judge shall record with his own hand the reasons for such opinion. That an order granting the application should be recorded is also clearly inferrible from the provision made in s. 629 for an appeal against such an order. Such an order must necessarily be quite distinct from the final order made in the matter, for it must be preliminary thereto. By the order granting the application for review, the order impugned by that application is directed to be brought forward for review, which is a separate and subsequent proceeding. The procedure of the Subordinate Judge in the case before us was, in our opinion, extremely irregular. He omitted to record his reasons for granting the application for review, and he likewise omitted to record an order granting that application, and proceeded at once thereupon to pass an order setting aside the sale of the 21st January, 1878, which had been confirmed by his previous order of the 22nd May, 1878, without cancelling that order. But irregular as was the Subordinate Judge's procedure, we cannot consider that the Zila Judge was justified in entertaining the appeal preferred to him against the Subordinate Judge's order of the 11th October, 1879, which was not an order granting an application for review, but one setting aside a sale, and as such was not appealable under Act X. of 1877 as amended by Act XII. of 1879. Accordingly, under the provisions of s. 622 of the Code, we cancel the proceedings of both the lower Courts and direct the Subordinate Judge to dispose afresh of the application for review according to law. The costs of this application will follow the event.

APPELLATE CIVIL.

Before Mr. Justice Spankie and Mr. Justice Straight.

GHANSHAM (DECREE-HOLDER) v. MUKHA AND OTHERS (JUDGMENT-DEBTORS.) *

Execution of decree—Application to keep in force decree—Step in aid of execution—Act IX of 1871 (Limitation Act), sch. ii, No. 167—Act XV of 1877 (Limitation Act), sch. ii, No. 179.

An application by a judgment-debtor stating that the proceedings in execution had been adjusted, and he had paid the decree-holder Rs. 10, and would pay him the balance of the decretal amount subsequently, and praying that the execution-

* Second Appeal, No. 55 of 1880, from an order of R. G. Currie, Esq., Judge of Aligarh, dated the 15th May, 1880, reversing an order of Munshi Izzat Rai, Munsif Khair, dated the 20th March, 1880.

case might be struck off, is an application to "keep in force the decree," within the meaning of No. 167, sch. ii of Act IX of 1871, and a "step in aid of execution of the decree," within the meaning of No. 179, sch. ii of Act XV of 1877.

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APPLICATION for execution of the decree in this case was made on the 18th November, 1876. On the 14th December, 1876, one of the judgment-debtors presented an application to the Court executing the decree to the following effect:—"In the above case the matter has been adjusted between the petitioner and the decree-holder: accordingly the petitioner has paid the decree-holder Rs. 10 towards the amount of the decree: I shall pay the balance hereafter with the decree-holder's consent: the petitioner prays that the case may be struck off." At the time this application was presented the decree-holder's wakil presented a receipt for the Rs. 10 mentioned in the application. The next, or the present, application for execution of the decree was presented on the 15th December, 1879. The judgment-debtors objected that the application was barred by limitation. The Court held that the application was within time, as limitation should be computed from the date of the application of the 14th December, 1876, that application being one which kept the decree in force, under the provisions of Act XV of 1877, sch. ii, No. 179. On appeal by the judgment-debtors the lower appellate Court held that that application did not keep the decree alive, and the present application for execution was barred by limitation. The decree-holder appealed to the High Court.

Munshi *Hanuman Prasad* and Babu *Oprokash Chandar Mukarji*, for the appellant.

Lala Jokhu Lal, for the respondents.

The judgment of the Court (SPANKIE, J., and STRAIGHT, J.) was delivered by

STRAIGHT, J.—We think that the petition of the judgment-debtor filed in the execution department on the 14th December, 1876 was an application to "keep in force the decree," as required by No. 167, sch. ii. of Act IX of 1871, as also a "step in aid of execution of the decree," as provided by No. 179, sch. ii of Act XV of 1877. The appeal is decreed with costs, and the decree-holder may proceed with the execution of the decree.

Appeal allowed.