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Sub-section (3). Such registration shall take effect as if the document had been registered when it was first duly presented for registration."

Reading sub-sections (2) and (3) of section 75 with section 77, it appears to me that the registering officer has jurisdiction to register a document if it be duly presented for registration within thirty days of the decree passed by the Civil Court. It is in my opinion impossible to escape from the very clear words that have been used by the Legislature in this connection. Obviously the Legislature thought that it was necessary to impose some limitation of time for the presentation of a document for registration, and it did think that thirty days ought to be the limit of time.

I must allow this appeal and set aside the judgments and decrees passed by the courts below. The plaintiffs are entitled to a decree in terms of prayer (1) in the plaint; they are also entitled to their costs throughout.

ADAMI, J.—I agree.

Appeal allowed.

APPELLATE CIVIL.

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November, 26.

Before Das and Adami, JJ.

CHOWDHURI CHINTAMONI MAHAPATRA

v.

SRIMATI MONMOHINI DEBI. *

Code of Civil Procedure, 1908 (Act V of 1908) Order XXI, rules 11(2) (g) and 17, section 151—Execution of decree, interest wrongly stated in application for—application for amendment, whether maintainable.

Order XXI, rule 17, of the Code of Civil Procedure, 1908 merely requires the court to which an application for execution is made, to ascertain that the application complies in form with the provisions of rules 11 to 14 and does not impose upon the court the duty of seeing that the amount entered in the application as being due by way of interest under rule 11 (2) (*g*), is correct.

Where a decree-holder has, in his application for execution, over stated the amount due on account of interest, the court is competent to direct that the application be amended so as to show the correct amount due.

*Circuit Court, Cuttack, Appeal from, Appellate Order No. 18 from an order of Mr. F. F. Madan Esq., District Judge of Cuttack, dated the 14th August, 1920, confirming an order of Babu B. K. Sarkar, Munsif 1st Court of Cuttack, dated the 26th and 27 April, 1920,

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Chowdhuri Chintamoni Mahapatra vs. Srimati Manmohini Debi.

The facts of the case material to this report were as follows:—

In his application for execution of a decree obtained by him the decree-holder claimed Rs. 1,510-12-1½ by way of interest. On the judgment-debtor bringing it to the notice of the court that only Rs. 1,406-1-6 was due on account of interest the decree-holder applied for amendment of the application and the court directed the application to be amended. The judgment-debtor objected to the amendment and contended that inasmuch as the original application did not contain a correct statement of the amount due it did not conform to the provisions of Order XXI, rule 11 (2) (*g*), and should be dismissed. The objection was overruled. The judgment-debtor appealed to the District Judge who affirmed the order of the trial court.

The judgment-debtor appealed to the High Court.

M. Suba Rao, for the appellant.

G. C. Ray, for the respondent.

DAS, J.—The view taken by the learned Judge in the court below is entirely correct. The decree-holder obtained a decree so far back as the 20th November, 1907. It is unnecessary to go through the different stages of execution proceedings: it is sufficient to say that the execution case with which we are concerned was instituted on the 18th November, 1919. By that application the decree-holder claimed Rs. 1,510-12-1½ for and by way of interest. It appears however that she was only entitled to Rs. 1,406-1-6. Subsequently, on the 27th April, 1920, the judgment-debtor brought this matter to the notice of the court; the decree-holder asked for an amendment and the court directed the application to be amended. It was accordingly amended and the courts below have allowed execution.

It is contended by the learned Vakil on behalf of the appellant that the course which was adopted by the courts below was entirely illegal. It is urged before us that Order XXI, rule 11, sub-rule (2), clause (*g*), provides that

"Every application for the execution of a decree shall state the amount with interest, if any, due upon the decree."

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It is then pointed out that under Order XXI, rule 17, it is the duty of the court to ascertain whether such of the requirements of rules 11 to 14 as may be applicable to the case have been complied with, and if they have not been complied with the court has the power to reject the application or allow the defect to be remedied then and there or within a time to be fixed by it. The learned Vakil argues that there was a defect in the execution petition as presented by the decree-holder in so far as it did not state the interest due to the decree-holder correctly. According to him, since the court, under rule 17 of Order XXI, did not ascertain whether the requirements of rule 11, sub-rule (2), clause (*g*), had been complied with, the petition for execution should have been dismissed by the court when the defect was brought to its notice.

I do not read Order XXI, rule 17, in the way in which the learned Vakil for the appellant reads that rule. That rule provides :—

"On receiving an application for the execution of a decree as provided by rule 11, sub-rule (*2*), the court shall ascertain whether such of the requirements of rules 11 to 14 as may be applicable to the case have been complied with, and if they have not been complied with, the court may reject the application or may allow the defect to be remedied then and there or within a time to be fixed by it.".

I have no doubt whatever that this rule relates to the formalities that must be complied with by the decree-holder before his petition can at all be regarded by the Court. Now take for instance Order XXI, rule 11 (2). That rule provides that :—

"Every application for the execution of a decree shall be in writing signed and verified by the applicant or by some other person proved to the satisfaction of the court to be acquainted with the facts of the case and shall contain in tabular form" certain particulars.

Now rule 18 imposes upon the court the duty, when the execution petition is presented before it, to see whether the application is in fact in writing, signed and verified by the applicant or by some other person proved to the satisfaction of the court to be acquainted with the facts of the case, and whether it contains in tabular form the particulars which are required to be stated in the petition by rule 11(*2*). If the petition is not

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in the form which is contemplated by Order XXI, rule 11, the court has, under rule 17, the power either to reject the application or to allow the defect to be removed there and then or within a time to be fixed by it. Take again rule 12. That rule provides that:—

"Where an application is made for the attachment of any movable property belonging to a judgment-debtor but not in his possession the decree-holder shall annex to the application an inventory of the property to be attached containing a reasonably accurate description of the same."

Rule 17 imposes the duty upon the court to see whether the decree-holder has in fact annexed to the application when the application is for the attachment of any movable property belonging to the judgment-debtor but not in his possession, an inventory of the property to be attached containing a reasonably accurate description of the same. If the decree-holder has not complied with the formalities required from him under rule 12, the court, under rule 17, has the power either to reject the application or to allow the defect to be remedied there and then or within a time to be fixed by it. I do not understand that rule 17 at all imposes the duty upon the court to calculate the interest that may be due to the decree-holder from the judgment-debtor. In my opinion the argument of the learned Vakil on the first point before us is entirely unsustainable. On the second point there is no question of amendment. The Court has inherent power to do justice between the parties under section 151 of the Code and that power the court has exercised in this case.

The appeal fails and must be dismissed with costs.

ADAMI, J.—I agree.

Appeal dismissed.