

1935

PIRTHI SINGH-  
JOWALA  
PARSHAD  
v.  
MAM CHAND.

are, however, clearly distinguishable as in these cases the father or the *karta* of the family mortgaged or sold joint family property for speculative enterprises, and there were no antecedent debts of the father for the payment of which any property was sought to be sold in execution.

For the reasons given above, we accept the appeal, set aside the judgment and the decree of the trial Court, and dismiss the plaintiffs' suit with costs throughout.

P. S.

*Appeal accepted.*

### LETTERS PATENT APPEAL.

*Before Addison and Din Mohammad JJ.*

1935

Feb. 4.

DEVI DAS, DECEASED (JUDGMENT-DEBTOR) THROUGH HIS LEGAL REPRESENTATIVE—Appellant

*versus*

SADUR-UD-DIN, DECEASED (DECREE-HOLDER)

THROUGH HIS LEGAL REPRESENTATIVES—

Respondent.

**Letters Patent Appeal No. 139 of 1934.**

*Decree — ordering payment of a certain sum “ within three months from to-day ” — whether first day can be excluded in computing the period — Punjab General Clauses Act, 1 of 1898, section 7 and Indian General Clauses Act, X of 1897, section 9 : principle of — whether applicable.*

On 18th April, 1933, the decree-holders obtained a decree against the judgment-debtor ordering him to pay Rs.6,000 to the decree-holders or to deposit the amount in the trial Court “ within three months from to-day; ” if the sum was not so paid, the plaintiff's suit was to be deemed to have been decreed in full. On 18th July, 1933, the judgment-debtor deposited Rs.6,000 in the trial Court, but the decree-holders contended that the payment was one day late.

*Held*, that although section 7 of the Punjab General Clauses Act and section 9 of the Indian General Clauses Act do not apply to the language used in decrees, these Acts embody a general principle of equity which should be applied to decrees apart from statutes and, therefore, the first day of the period fixed for payment should be excluded in computing the time allowed.

*Sankaran Unni v. Kummakattil Eazhuvan Kandan's Son Raman* (1), followed.

*Rammun Lall v. Mutsuddee* (2), and *Prabhu v. Nihala* (3), dissented from.

*Letters Patent Appeal from the order passed by Jai Lal J. in C. A. No. 731 of 1934, on 3rd October, 1934, reversing that of Sardar Sewa Singh, Senior Subordinate Judge, Delhi, dated 15th January, 1934, and remitting the case to the executing Court with directions to proceed with the execution proceedings.*

MEHR CHAND MAHAJAN, for Appellant.

KISHAN DAYAL, for Respondents.

The judgment of the Court was delivered by—

ADDISON J.—The decree-holders obtained a decree against the judgment-debtor Devi Das that he should pay Rs.6,000 to the decree-holders or deposit the same amount in the trial Court “within three months *from to-day*,” the date of the decree being the 18th of April, 1933. If the sum was not so paid, the plaintiffs’ suit was to be deemed to have been decreed in full with costs throughout.

On the 18th of July, 1933, Devi Das deposited Rs.6,000 in the trial Court, but the decree-holders, alleging that the payment of Rs.6,000 was one day late, applied for the execution of the decree in full.

(1) (1927) 87 I. C. 560.

(2) 97 P. R. 1874.

(3) (1916) 36 I. C. 183.

1935

DEVI DAS  
v.  
SADUK-UD-  
DIN.

1935  
 ———  
 DEVI DAS  
 v.  
 SADUR-UD-  
 DIN.

The executing Court held that the deposit was made within time and dismissed the application. The decree-holders appealed to this Court and a Single Judge accepted the appeal, holding that the deposit had not been made within time and, therefore, execution in full had to be allowed. Against this decision this Letters Patent Appeal has been preferred.

In section 7 of the Punjab General Clauses Act and section 9 of the Indian General Clauses Act, it is enacted that "it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word 'from'." So far as statutes, therefore, are concerned, the use of the word "from" excludes the day named. Of course, these Acts do not apply to the language used in decrees, but they certainly serve as a guide to what the proper meaning of 'from' is. *Rummun Lall v. Mutsuddee* (1) has been relied upon. There is no doubt that the Judges there said that the words "within three months from the 11th of July, 1873," meant that the money had to be paid by the 10th October, 1873. It is clear, however, from the judgment that this was *obiter dictum*, as the purchase money had not even been paid when the appeal was before the Chief Court. Further, the second Judge concurred on the ground that the law regarding pre-emption had to be strictly construed. A Single Judge of this Court purported to follow this decision in *Prabhu v. Nihala* (2), but it was unnecessary for him to do so, as he held that there had been a tender within three months even if the date of the decree was counted as the first day. Neither of these cases, therefore, can be taken as authoritative. It was said by a Judge of the Madras High Court in

(1) 37 P. R. 1874.

(2) (1916) 36 I. C. 183.

*Sankaran Unni v. Kummakattil Eazhuran Kandan's Son Raman* (1), that the General Clauses Act did not apply to such cases, but that it embodied a general principle of equity and that was the reason why this definition of "from" was given in it. In the Oxford New English Dictionary the third meaning of "from" is given as follows:—"Indicating a starting point in time or the beginning of a period. (The date from which one reckons may be either inclusive or exclusive)."

We are in respectful agreement with the Judge of the Madras High Court in holding that the General Clauses Act embodies a principle of equity which should be applied to decrees apart from statutes. As the date from which one reckons may be either inclusive or exclusive, according to the very high authority of the Oxford New English Dictionary, we hold that the period to be reckoned should exclude the day mentioned. This being so, the deposit was within time. We accept the appeal, set aside the order of the Judge of this Court and restore the order of the executing Court dismissing the application for execution. We make no order as to costs.

A. N. C.

*Appeal accepted.*

1935

DEVI DAS  
v.  
SADUR-UD-  
DIN.

---

(1) (1927) 87 I. C. 560.