

APPELLATE CIVIL.

Before Sir Charles Sargent, Kt., Chief Justice, and Mr. Justice Birdwood.

1891.
September 17.

MORO SADA'SHIV, (ORIGINAL PLAINTIFF), APPELLANT, v. VISA'JI RAGHUNA'TH, (ORIGINAL DEFENDANT), RESPONDENT.*

Limitation Act (XV of 1877), Sec. 7—General principle of law as to the disability of minors—Provisions of the Civil Procedure Code (Act XIV of 1882)—Minor represented by a guardian, time does not run against.

Section 7 of the Statute of Limitations (Act XV of 1877), strictly speaking, only applies to cases dealt with by that statute itself.

The provisions of the Civil Procedure Code (Act XIV of 1882) must, in the absence of anything to the contrary, be deemed to be subject to the general principle of law as to the disability of minors, which is that time does not run against a minor, and the circumstance that a minor has been represented by a guardian does not affect the question.

THIS was a reference made by John FitzMaurice, Acting District Judge of Ratnágiri, under section 617 of the Civil Procedure Code (Act XIV of 1882), in the matter of an appeal pending before him.

The reason assigned by the Judge for making the reference was as follows :—

“The appeal being one from an order passed by the lower Court under section 244, Civil Procedure Code, in proceedings for the execution of a decree which was passed in a suit for the recovery of a sum of Rs. 82, and so one of the nature cognizable by the Court of Small Causes (section 586, Civil Procedure Code), I am of opinion, relying on the ruling in *Aithala v. Subbanna*⁽¹⁾, that my decree will be final.”

The reference was made in the following terms :—

“The decree sought to be executed was passed on the 13th November, 1876, in favour of the minor applicant represented by the guardian and administrator of his estate, the Collector. The latter in the above capacity made several applications for execution of the decree, which were granted ;—the last application, which was granted, being made in 1888.

* Civil Reference, No. 14 of 1891.

(1) I. L. R., 12 Mad., 116.

“The applicant made the present application on the 17th December, 1890, within three years after he attained majority.”

The point submitted for the opinion of the High Court was whether the application of the 13th December, 1890, (being made after the expiration of twelve years from the date of the decree) was time-barred.

The District Judge's opinion was that it was time-barred under section 230 of the Civil Procedure Code (Act XIV of 1882).

There was no appearance for the parties in the High Court.

SARGENT, C. J.:—Section 7 of the Statute of Limitations, strictly speaking, only applies to the cases dealt with by the statute itself. The question referred to us must be decided by the general principle of law as to the disability of minors, to which the provisions of the Civil Procedure Code must, in the absence of anything to the contrary, be deemed to be subject. The general principle is that time does not run against a minor; and the circumstance that he has been represented by a guardian, does not affect the question—*Mon Mohan Buksee v. Gunge Soondery Dubee*⁽¹⁾, *Juggivan Amirchand v. Hason Abraham*⁽²⁾.

Order accordingly.

⁽¹⁾ I. L. R., 9 Cal., 181.

⁽²⁾ I. L. R., 7 Bom., 179.

APPELLATE CIVIL.

Before Mr. Justice Jardine and Mr. Justice Parsons.

VYA'NKA'JI, (ORIGINAL PLAINTIFF), APPELLANT, v. SARJA'RA'O APA'JI-
RA'O, (ORIGINAL DEFENDANT), RESPONDENT.*

1891.

September 21.

Pensions Act (XXIII of 1871), Secs. 3, 4 and 6—Meaning of the word “pension”—Suit for a cash allowance payable by an ināmlār—Necessity of Collector's certificate.

Plaintiff sued, as the trustee of a *devasthan*, to recover the amount of a cash allowance attached to the worship of certain idols in the village of Ankli. The plaintiff alleged that the defendant, who was the *ināmlār* of the village, received its revenues subject to the payment of the allowance in question, and that he had wrongfully appropriated the latter for the three years preceding suit.