

APPELLATE CIVIL.

Before Sir C. Farran, Kt., Chief Justice, and Mr. Justice Parsons.

RAMCHANDRAJ KRISHNAPA, PLAINTIFF, *v.* BELYA AND
ANOTHER, DEFENDANTS.

1896.

August 18.

SUBRAO VITHOBA GURGURE, AUCTION-PURCHASER.*

*Execution—Sale—Civil Procedure Code (Act XIV of 1882), Sec. 307—
Payment by purchaser into the Post Office within time—Money not received
by the Court until after expiration of time allowed by the section.*

A purchaser at an execution sale was bound under section 307 of the Civil Procedure Code (Act XIV of 1882) to pay the balance of the purchase-money into Court on the 19th June, 1896. On the 17th June he paid in the amount to the Post Office at Yellápur and obtained a money order which he sent to the Názir of the Court. The Nazir did not receive the money until the 22nd June.

Held, that the payment was not in time. The Post Office is not the agent of the Court and the purchaser was bound to see that the money reached the Court in time to satisfy the requirements of section 307.

REFERENCE by Ráo Bahádur Raghavendra Ramchandra Gangoli, Acting First Class Subordinate Judge of Kárwár, under section 617 of the Civil Procedure Code (Act XIV of 1882).

On the 4th June, 1896, certain immoveable property was sold in execution of the decree of the Court of the First Class Subordinate Judge of Kárwár. The purchaser paid the deposit of twenty-five per cent. on the amount of the purchase-money on the same day. Under section 307 of the Civil Procedure Code (Act XIV of 1882) he was bound to pay the balance of the purchase-money before the evening of the 19th June. On the 17th June he paid the money into the Post Office at Yellápur and caused a money order to be sent to the Názir of the Court. The Názir received the money on the 22nd June.

On these facts the Subordinate Judge submitted the following question:—

“Whether a payment into the Post Office is equivalent to a payment into Court for the purposes of section 307 of the Code of Civil Procedure?”

* Civil Reference, No. 5 of 1896.

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The opinion of the Subordinate Judge was in the affirmative. He referred to *Srinivas v. Malayacha*⁽¹⁾; *Gujadhar Pawree v. Naik Pawree*⁽²⁾.

Shamrav Vitthal (amicus curie), for plaintiff and defendants.

Narayan G. Ohandavarkar (amicus curie) for auction-purchaser.

FARRAN, C. J.:—We answer the question in the negative. The Post Office is not a part of the Court or the agent of the Court. The purchaser, if he chooses to send the purchase-money by it, must, as in any other mode of sending the money, send it so that it shall reach the Court in time to satisfy the requirements of section 307 of the Code of Civil Procedure. He cannot treat the time of payment into the Post Office as the time of payment to the Court. In both the cases cited by the Subordinate Judge the money was actually brought to the Court within the time allowed, so that they have no application to the present case.

(1) I. L. R., 7 Mad., 211.

(2) I. L. R., 8 Cal., 528.

APPELLATE CIVIL.

Before Sir C. Farran, Kt., Chief Justice, and Mr. Justice Fulton.

1896.

August 24.

AMAVA AND OTHERS (ORIGINAL DEFENDANTS), APPELLANTS, v. MAHADGAUDA (ORIGINAL PLAINTIFF), RESPONDENT.

Hindu law—Jains—Adoption—Death of only son leaving widows in lifetime of father—Subsequent death of father—Vesting of father's estate in son's widows—Adoption by son's senior widow without consent of junior widow—Divesting of estate.

By custom the Jains are governed in matters of adoption by the ordinary rules of Hindu law.

Where an only son has died in his father's lifetime leaving a widow, an adoption by her after the father's death, and after she has inherited the estate, is valid.

Where the son has left two widows, an adoption by the senior widow after the father's death is valid although the younger widow does not consent and although such adoption divests the estate which she has inherited from her father-in-law.

The authority of a widow to adopt is at an end when the estate after being vested in her son has passed to the son's widow.

* Second Appeal, No. 620 of 1895.