

1900:

KARIYAPPA

RACHAPPA.

witnesses is defendant No. 1's nephew (Exhibit 76), and two others are strangers. Even defendants' books mention the date corresponding to 21st January in regard to other creditors in whose favour similar credits were made at the same time. The fact that the partnership came to a sudden termination about this time in consequence of a theft, and that it was held to have ceased to be a partnership on 14th January, do not discredit the evidence relied on by the lower Court. I, therefore, see no reason to differ from the findings of the lower Court both on the question of law and of fact.

The objection under section 21 raised by appellant in Appeal No. 110 calls for no special notice. The section, no doubt, makes partners not liable for any written acknowledgments or payments by one or other of them—*Premji Ludha v. Dossa Doongersey* ⁽¹⁾, but the use of the word 'only' shows that while a partner cannot thus make another partner liable merely by his signature, there is nothing to prevent such liability from falling on partners, if, as in the present case, they are shown to have all joined in the settlement made by one of them. I would, therefore, dismiss both the appeals and confirm the decree.

Appeal dismissed.

(1) (1886) 10 Bom., 358

APPELLATE CIVIL.

Before Mr. Justice Parsons and Mr. Justice Ranade.

1900.

March 1.

DAGDU (ORIGINAL JUDGMENT-DEBTOR), APPELLANT, *v.* VANJI AND OTHERS
(ORIGINAL ASSIGNEE OF THE DECREE-HOLDER, &C.), RESPONDENTS.*

Transfer of Property Act (IV of 1882), Sec. 131—"Debt"—Transfer of a debt—Decree not a debt—Assignment of decree—Notice of assignment—Civil Procedure Code (Act XIV of 1882), Sec. 232.

A decree is not a "debt" within the meaning of that word as used in section 131 of the Transfer of Property Act (IV of 1882), so as to make a transfer thereof void without express notice.

When a decree is assigned, a notice given under section 232 of the Civil Procedure Code (Act XIV of 1882) is sufficient.

SECOND appeal from the decision of R. S. Tipnis, District Judge of Khândesh.

*Second Appeal, No. 796 of 1899.

One Gulabchand obtained a money decree against Dagdu and two other persons.

In execution of the decree a sum of Rs. 1,000 was recovered in part satisfaction thereof.

Subsequently Gulabchand assigned the decree to Vanji *alias* Tulsiram and Habibulla, who presented a darkhást to recover the balance due under the decree.

A notice was issued to the judgment-debtor under section 232 of the Civil Procedure Code (Act XIV of 1882).

Dagdu resisted the darkhást mainly on the ground that no notice of the transfer of the judgment-debt had been given to him as required by section 131 of the Transfer of Property Act (IV of 1882).

This objection was overruled by the Court of first instance on the ground that the debt due under a decree did not fall under section 131 of Act IV of 1882, and that, therefore, no notice was necessary.

The Court, therefore, ordered execution to proceed.

This order was upheld, in appeal, by the District Judge. He held that under section 232 of the Civil Procedure Code the judgment-debtor had got the requisite notice through the Court.

Against this decision, Dagdu appealed to the High Court.

S. R. Bakhale, for appellant.

B. N. Bhajekar, for respondents.

PARSONS, J.:—We agree with the decision of the High Court of Calcutta in *Afzal v. Ram Kumar*⁽¹⁾ that a decree is not a debt within the meaning of that word as used in section 131 of the Transfer of Property Act, 1882, so as to make the transfer void without express notice. The notice required by section 232 of the Civil Procedure Code has been given, and that is sufficient.

We, therefore, dismiss this appeal with costs.

Appeal dismissed.

(1) (1886) 12 Cal., 610.

1900.

DAGDU

v.

VANJI.