Such, very briefly stated, are the reasons for which I think the judgment of the lower appellate Court in this case must be set aside and the judgment of the first Court restored.

Decree reversed.

R. R.

APPELLATE CIVIL.

Before Mr. Justice Beaman and Mr. Justice Heaton.

NILKANTH LAXMAN JOSHI AND OTHERS (ORIGINAL APPLICANTS), APPELLANTS *v.* RAGHU *bin* MAHADU PARAB AND OTHERS (ORIGINAL OPPONENTS), RESPONDENTS.*

1918. *February* 8.

Indian Limitation Act (IX of 1908), Schedule I, Article 182, Clause 6—Execution of decree—Step-in-aid of execution—Order to issue notice—Actual issue of notice—Time runs from the actual issue.

Clause 6 of Article 182 of the first Schedule to the Indian Limitation Act, 1908, makes the time run, not from the date when the Court passes an order to issue the notice but, from the date on which the notice is actually issued.

SECOND appeal from the decision of P. E. Percival, District Judge of Poona, dismissing an appeal from an order passed by B. R. Mehendale, Subordinate Judge at Haveli.

Execution proceedings.

The decree under execution was passed on the 11th July 1911. An application to execute the decree was made on the 24th February 1913. A notice was ordered by the Court to issue on the 9th April; but it was actually issued on the 13th April 1913. The present application for execution was made on the 10th April 1916.

* Second Appeal No. 280 of 1917.

1918.

NILKANTH LAXMAN v. RAGHU bin MAHADU.

The decree-holder sought to bring the application within time, by relying upon *Cheruvath Thalangal Bapu* v. *Nerath Thalangan Kanaran*[1], and contending that time began to run only from the date on which the notice was as a matter of fact issued. The other side relied on *Govind* v. *Dada*[2], and maintained that time run from the date when the Court passed an order issuing the notice.

The lower Courts followed the Bombay case and dismissed the Darkhast as barred by limitation.

The decree-holder appealed to the High Court.

S. Y. Abhyankar, for the appellant:—The case of *Govind* v. *Dada*[2] was decided under the Limitation Act XV of 1877. When the new Act IX of 1908 was passed the Legislature took into consideration the conflict of views that existed between the High Courts of Madras and Calcutta on the one hand, and the High Court of Bombay on the other, and accepted the former: see *Cheruvath Thalangal Bapu* v. *Nerath Thalangan Kanaran*[3]; *Kadaressur Sen Babor* v. *Mohim Chandra Chakravarti*[4] and *Ratan Chand Oswal* v. *Deb Nath Barua*[5]: see also *Hari Ganesh* v. *Yamunabai*[6].

The respondent did not appear.

BEAMAN, J.:—The application for execution would undoubtedly be in time if we take the date of the issue of the notice upon the last application to be in fact the date on which it was issued and not the date on which the Court ordered it to be issued. There was a conflict of authority under the former Indian Limitation Act, this Court holding that the word "issuing" in the Article meant, not the actual sending out of the notice, but the making of the order that it should on some

(1) (1906) 30 Mad. 30.
(2) (1904) 28 Bom. 416.
(3) (1906) 30 Mad. 30 at p. 32.
(4) (1902) 6 C. W. N. 656.
(5) (1906) 10 C. W. N. 303.
(6) (1897) 23 Bom. 35.

future day be sent out. The Calcutta and Madras High Courts took the opposite view. The Indian Limitation Act was accordingly amended and the word "issue" was substituted for "issuing". I entertain no doubt but that the intention of that amendment was to give effect to the view held by the Calcutta and Madras High Courts. As the Article now stands, I do not see how it is capable of any other construction. Time is said to run in all cases in which notices have been issued from the issue of the notice. Taking language in its natural sense and assuming the Legislature to mean what it says, I cannot read into that the strained construction which was put upon the Article in the former Indian Limitation Act, a construction made possible, if indeed it was made possible, only by treating the word "issuing" as a continuing verb dating back to the time from which the process was started by the Court. By a parity of reasoning, it appears to me that it would be as permissible to say that the date of a man's hanging was not the day on which he was actually hanged but the day on which the Court sentenced him to be hanged. I must confess for my own part that I am always strongly averse from putting an unnatural construction upon language which seems to me to have a perfectly plain and natural meaning.

In my opinion, there can be no doubt but that the present application is within time since it is within three years from the date on which notice was actually issued upon the last application.

I would, therefore, reverse the order of the Court below, direct that this application be again taken on the file and proceeded with according to law.

HEATON, J. :—I concur.

Order reversed.

R. R.