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right of inheritance to his natural parents, and such a contract would therefore involve an injury to the person and property of the adopted son, and again such a contract, if permitted, would defeat the provisions of the Hindu law, and that is one of the restrictions laid down in s. 23, Act IX of 1872. In that section it is enacted that the consideration or object of an agreement is lawful, unless it is forbidden by law, or is of such a nature, that, if permitted, it would defeat the provisions of any law, and it is very clear in this case that, if the Court were to recognize a contract of this description, it would be defeating the provisions of the Hindu law therefore, concurring with the decision of the Subordinate Judge, we dismiss the appeal with costs. The defendant No. 2 will be entitled to separate costs.

Before Mr. Justice L. S. Jackson and Mr. Justice Ainslie.

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GURUDAS RAI (JUDGMENT-DEBTOR) v. R. T. STEPHENS AND OTHERS
 (DECREE-HOLDERS).*

Execution of Decree—Mesne Profits—Costs—Interest.

This appeal arose out of an application made for the execution of a decree of the Privy Council, which declared that the decision of the High Court be reversed with a fixed sum for costs, and that the decision of the Principal Sudder Ameen be affirmed with costs. The suit was brought to recover certain property, and the decree of the lower Court was in favor of the plaintiff, but that decree was reversed by the High Court, and the defendant, now judgment-debtor, obtained possession of the property. On application for execution of the decree of the Privy Council the judgment-debtor objected that the decree did not in express terms award possession to the decree-holder, and that he was not entitled to *wasilat* during the time the judgment-debtor had been in possession; and that he was not entitled to interest on any costs of which interest had not been allowed by the Privy Council. The Judge was of opinion that the decree-holder was entitled to *wasilat* with interest thereon for the time the judgment-debtor was in possession, and that he was entitled to costs incurred by him in the Court of the Principal Sudder Ameen; but that the decree of the Privy Council being silent as to the costs in the High Court, the decree-holder was not entitled to anything on account of them.—

* Miscellaneous Regular Appeal, No. 296 of 1873, against an order of the Subordinate Judge of Zilla Jessore, dated the 31st of May 1873.

From this decision the judgment-debtor appealed to the High Court.

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Mr. Ghose (Baboo Bacharam Mookerjee with him) for the appellant.

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Baboo Bungshidhur Sen for the respondents.

The judgment of the Court was delivered by

JACKSON, J.—This is an appeal arising out of execution-proceedings. The plaintiff brought a suit to recover certain property, and by a decree of the Principal Sudder Ameen he was declared entitled to a portion of that property. On appeal the High Court reversed that decree, and declared that the plaintiff was entitled to the whole of that property. On further appeal to England, the decision of the High Court was reversed, and that of the Principal Sudder Ameen was restored. The order of Her Majesty in Council was in these words:—"The decree of the High Court of Judicature at Fort William in Bengal of the 5th December 1864 be, and the same is hereby, reversed, with £224 6d. sterling costs, and that the decree of the Principal Sudder Ameen of Zilla Jessore of the 25th April 1864 be, and the same is hereby, affirmed with costs." On this the Subordinate Judge, who now takes the place of the Principal Sudder Ameen of Jessore, in giving effect to the decree of Her Majesty in Council, ordered the restitution of the property taken by the plaintiff under the decree of the High Court with *wasilat*, and has also ordered that the defendant shall obtain interest on the costs both of the Court of first instance and of the Privy Council; but he has disallowed the costs of the proceedings of the High Court as not being expressly awarded by the order in Council. The plaintiff appeals, contending in the first place that there is no warrant for the Court in execution giving the defendant mesne profits. A decision of this Court has been referred to, but it appears to me that this matter is in fact governed by the decision of the Judicial Committee in the case of *Raja Lalanund Singh v. Maharaja Luckmisser Singh (I)*. The Judicial Committee there held that although the decree had only ordered the delivery of the land, the mesne profits flowed naturally therefrom, and this Court ought to have given them to the decree-holder, and it seems to follow that, on the same principle on which restitution takes place as to the lands erroneously given by the order of the High Court, the mesne profits ought also to be given. As to the precise amount of the mesne profits, we do not see that any adjudication has taken place, and we do not think, therefore, that we have to consider that point. The plaintiff also complains that interest on costs of the proceedings in the Privy Council has been allowed for which there is no provision in the decree. The respondent does not contest this point, and it is clear, I think, that as the decree of Her Majesty in Council is silent on the

(1) 13 Moore's I. A., 490; S. C., 5 B. L. R., 605 nomine *Raja Lalanund Singh v. Maharaja Luckimpur Singh*.

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point, the respondent is not entitled to any interest upon the amount. But where he is ordered to obtain the costs of the proceedings in the Court of the Principal Sudder Ameen, there, I think, the ordinary rule in such cases should be followed, and as interest would run on the original decree, it must also run in execution.

As to the objection of the respondent under s. 348, it appears to us that the Subordinate Judge misreads the order in Council when he says that "the order is silent with regard to the costs incurred by the decree-holder in the High Court." The order runs thus:—"That the decree of the High Court, &c., &c. be, and the same is hereby, reversed with costs." These costs are the costs of the Privy Council, "and that the decree of the Principal Sudder Ameen be, and the same is hereby, affirmed with costs." These words "with costs" must have some meaning. They could not refer to the costs of the Privy Council because those costs had been already awarded specifically. They could not refer to the costs of the Principal Sudder Ameen's Court because the simple affirmation of his decree carrying costs would be sufficient, and no specific mention of the costs of that Court would be necessary. Those words "with costs" therefore must relate to the affirmation of the Principal Sudder Ameen's decree, and the dismissal of the appeal against that decree which the Judicial Committee declares would have been the proper order for the High Court to make, and the costs therefore given in that clause must be the costs of the proceedings in which the Principal Sudder Ameen's decree was first impugned, that is the costs of the High Court in Bengal. We are bound to assign a meaning to the words "with costs," and we have done so; but we are not bound to go further and say that the costs must also include interest upon the costs. We therefore so far modify the decree of the Subordinate Judge as to declare that the defendant will be entitled to his costs of appeal to the High Court but without interest, and we think that we ought not further to complicate these proceedings by allowing the costs of the present appeal.
