

receiving a certain sum of money, which he alleged was his property by reason that it had been pledged to him as security for the money he advanced to Korban Ali. This cause of action arose to the plaintiff, not when he sued Korban Ali for the debt, but when, on the 26th August 1862, the Court of Wards, defendant, refused to allow him the money which had been pledged to him.

I am of opinion, therefore, that the plaintiff's suit will lie, and I find that we are supported in this view by opinions expressed by various Judges of this Court in the cases of *Gupinath Sing v. Shiu Sahaya Sing* (1), *Shaikh Mowla Buksh v. Bhyrab Doss* (2), *Bindabun Chunder Shaha v. Janee Bibee* (3).

I agree, therefore, that the decisions of the Courts below must be reversed, and we must declare that the plaintiff is entitled to recover, out of the deposit in the Collectorate, the fees placed to the credit of Korban Ali, the Court of Wards, defendant's previous attachment of the 26th August 1862 notwithstanding, and we think that the plaintiff must have his costs in all Courts.

1869]

LALA TILAK
DHARI LAL
v.
JAMES FUR-
LONG.

1869
Feb. 13.

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

**RAMDHAN MANDAL (DEGREE-HOLDER) v. RAMESWAR
BHATTACHARJEE (JUDGMENT-DEBTOR).***

Limitation—Summary Decision—Act XIV. of 1859, s. 22.

The words "summary decision," as used in section 22, Act XIV. of 1859, mean a decision of the Civil Courts not being a decree made in a regular suit or appeal.

Under section 22, Act XIV. of 1859, the period for the enforcement of such decision is one year from the time it was passed.

Baboo Nabakrishna Mookerjee for appellant.

Baboos Annada Prasad Banerjee and Hem Chandra Banerjee
for respondent.

* Miscellaneous Special Appeal No. 503 of 1868, from an order of the Judge of Hooghly, dated the 7th of September 1868, reversing the order of the Sudder Ameen of that district, dated the 3rd June 1868.

(1) Case No. 2809 of 1863 ; 14th
December 1864,

(2) 5 W. R., 115.

(3) 6 W. R., 312.

1869

RAMDHAN
MANDAL
v.
RAMESWAR
BHATTA-
CHARJEE.

L. S. JACKSON, J.—I THINK the decision of the lower Appellate Court is right. This was an application to enforce a summary decision or award of a Civil Court not established by Royal Charter. It came within section 22, Act XIV. of 1859. The special appellant's pleader contends that the present order, which was an order to pay costs relating to a petition to set aside the decree on the ground of fraud, such petition having been disallowed, does not come within the words "summary decision or order," and that the words "summary decision" mean a decision which is open to be contested by regular suit.

I am not aware of any authority for that construction of the words "summary decision." As I understand the words "summary decision or award," they mean a decision of the Civil Courts not being a decree made in a regular suit or appeal. The petitioner, therefore, was bound to apply for the enforcement of this decision within one year from the time it was made. He seems to have thought that he had brought himself within time by paying into Court the money which he ought to have paid immediately on the making of the order, and then applied to recover it from the opposite party. It seems to me he ought to have paid the money at once ; and that by his omission to pay within the year, he put himself out of Court, and debarred himself from proceeding to recover it from the opposite party.

MARKBY, J.—I am of the same opinion. I don't find any definition of the words "summary decision" that are used in section 23 (1), and I should have doubted whether the meaning of these words is sufficiently well known to justify the use of them as a technical term in an Act of the Legislature without any definition. But on comparing section 23 with section 20, I think the construction put upon them by Mr. Justice Jackson must be the right one.

As suggested to me now by Mr Justice Jackson if that were not so, there would be a large number of cases for which no limitation whatever is provided.

L. S. JACKSON, J.—The order of the lower Appellate Court is affirmed with costs.

(1) Act XIV of 1859.