

that, inasmuch as Kalee Pershad has applied in time, his brother, who must be taken to have had a joint interest in the decree, gets the benefit of Kalee Pershad's application. But, although the guardian originally sued on behalf of both the minors, their position now is not that of two persons who have jointly obtained a decree. Kalee Pershad rests his application to execute the decree so far as it relates to his brother's share, on an assignment of that share to him by his brother. But that assignment was made by the brother after his right was barred, and could pass to Kalee Pershad no right which the assignor did not himself have. Moreover, there is a certain discretion vested in the Courts as regards the issue of execution on the application of only one of several decree-holders or on the application of the assignee of the original decree-holders (*see* Sections 207, 208, and 221 of Act VIII. of 1859); and, in the present case, considering the very great length of time which has elapsed since the decree was passed, and the very great laches of all those (including Kalee Pershad) interested in the decree, we think that the execution issued should be limited in amount to one-half of the whole sum due under the decree.

The 3rd January 1867.

Present:

The Hon'ble G. Loch and A. G. Macpherson,
Judges.

**Limitation—Execution—Section 20, Act XIV.
of 1859.**

Case No. 636 of 1866.

Miscellaneous Appeal from an order passed by the Judge of Moorshedabad, dated the 22nd June 1866, affirming an order passed by the Sudder Moonsiff of that District, dated the 7th April 1866.

Shoo Chand Chunder (Decree-holder),
Appellant,

versus

Mr. D. Grant (Judgment-debtor), *Respondent.*

Baboo Gopal Lall Miller for Appellant.

No one for Respondent.

Where an application for execution was made, and notice was issued thereupon to the judgment-debtor, the proceeding, being apparently *bonâ fide*, was held sufficient to keep the decree alive under Section 20, Act XIV. of 1859.

Macpherson, J.—We think that the Lower Court is wrong, and that the appellant's

right to issue execution is not barred. The decree is dated the 23rd August 1862. On the 19th August 1865, an application for execution was made, and notice was issued thereupon to the judgment-debtor. It is true that nothing more was then done, and that the application was struck off eventually for want of prosecution. Still there is nothing to lead to the conclusion that the proceeding was not *bonâ fide*. Such a proceeding is sufficient to keep the decree alive under Section 20 of Act XIV. of 1859. Then the present application (for attachment of the person of the debtor) was made on the 7th March 1866, within three years of previous proceedings.

We reverse the order of the Lower Appellate Court, and direct that execution do issue.

The 3rd January 1867.

Present:

The Hon'ble G. Loch and A. G. Macpherson,
Judges.

Attachment of debts—Notice—Execution of joint decree—Sections 207 and 236, Act VIII. of 1859.

Case No. 613 of 1866.

Miscellaneous Appeal from an order passed by the Officiating Judge of Moorshedabad, dated the 11th June 1866, reversing an order passed by the Sudder Ameen of that District, dated the 26th February 1866.

Thakoor Dass Sing (Judgment-debtor),
Appellant,

versus

LuchmEEPuT Doogur (Decree-holder),
Respondent.

Baboo Hem Chunder Banerjee for Appellant.

Baboos Onookool Chunder Mookerjee and Bungshee Buddun Miller for Respondent.

When the property to be attached consists of debts, a written notice of attachment is necessary under Section 236, Act VIII. of 1859. Until the debtor receives such notice, he is bound to pay the amount of his debt to the creditor, whose right to receive it has been declared by a decree of Court; and it is no part of the duty of the debtor to make enquiries whether his creditor is or is not entitled to receive the money.

Though one of two or more decree-holders may, with the permission of the Court, take out execution of a joint decree under Section 207, the execution must be for the whole decree, and not for any fractional share to which the decree-holder may consider himself entitled, the Court making such order as may be necessary for protecting the interests of other decree-holders.

Loch, J.—THE facts stated to us are as follows: Shumboonath Roy and two others