

1869. be a breach of the agreement, unless it were shown that
May 4. from other causes the responsibility of refusal had been
S.A. No. 600 shifted from defendants.
of 1869.

We therefore reverse the decrees of the Courts below, and award plaintiffs the amount claimed as provided for in the agreement with costs throughout.

Appellate Jurisdiction (a)

Referred Case No. 17 of 1869.

PALANY ANDY PILLAY..... *Plaintiff.*

The day mentioned in a bond for the repayment of money as that on which the money is to be repaid is to be excluded from the period of computation under the Limitation Act. The borrower in such case has until the last moment of the day mentioned for the payment, and the right to sue accrues not on but from that day.

1869.
May 7.
R. C. No. 17
of 1869.

THIS was a case referred for the opinion of the High Court by Kristnasawmy Iyer, the Principal Sadr Amin of Tanjore, in three suits instituted by the plaintiff.

No Counsel were instructed.

Three plaints were presented on the part of the plaintiff on the 10th April 1869 for the recovery of money on three simple money-bonds, in all of which the 10th of April 1866 was fixed as the day for repayment of the sums mentioned in them. The period of limitation to suits founded on the bonds (which were not but might have been registered under Clause 7, Section XVI, Act XVI of 1864) was three years. If in calculating the period of limitation the day mentioned in the bonds for repayment were to be included in the computation the suits would be barred, since a period of three years from that date expired on the 9th April 1869.

The following questions were put for the opinion of the High Court;—

I. When does the cause of action accrue in a suit founded on a money-bond, whether on the day mentioned therein as the day on which the money is to be repaid or on the following day?

(a) Present : Scotland, C. J. and Innes, J.

II. If the former, whether or not the day on which the cause of action arose is to be included in the computation in calculating the period of limitation for bringing a suit on such a bond ?

1869.
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The Court delivered the following

JUDGMENT :—The provision in the Act of Limitations applicable to this case clearly imports that the period of three years is to be computed from the time when the right to sue for the alleged breach of a contract to pay a sum of money first arose. In the present case, the defendant had, under the contract, the whole of the 10th of April 1866, for payment, and there was not a breach of the undertaking to pay until the last moment of that day. Consequently, the right to sue did not accrue *on* but *from* that day and it must be excluded in the computation of the period of three years. This is an answer to both the questions submitted in the case.

Appellate Jurisdiction. (a)

Referred Case No. 16 of 1869.

P. VENKATASUBIA *against* K. SIVARAMAPPA.

Process of execution against the person or personal property of a judgment debtor may be issued on the decree of a Court of Small Causes by a Court in another district. Before issuing such process of execution, the Court receiving the decree is bound to see that the provisions in Sections 286 and 287 of the Civil Procedure Code have been strictly complied with.

The documents required to be transmitted for the purpose of obtaining execution are a copy of the decree and a certificate of any sum remaining due under it together with a copy of any order for execution that may have been passed.

Act XXVI of 1867 requires that copies of the decree and of the order for execution should be stamped. The certificate requires no stamp.

THIS was a case referred for the opinion of the High Court by P. Teroomul Row, the District Munsif of Purghy, in Petition No. 73 of 1869.

1869.
May 12
R. C. No. 16
of 1869.

This was an application for the execution of a decree passed by the District Munsif of Kadaray, in the Zillah of Cuddapah, in Suit No. 170 of 1868 on the file of the Small

(a) Present; Scotland, C, J, and Innes, J.

1869.
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 R. C. No. 16
 of 1869.

Cause Side of his Court, against the person and moveable property of the defendant who was alleged to reside within the local limits of the Court of the District Munsif of Purgby in the Zillah of Bellary.

On the 4th January 1869 a letter was received by the District Munsif of Purgby from the District Munsif of Kadaray forwarding a copy of the decree, a certificate that the decree had not been satisfied, and a copy of the application for execution made by the plaintiff (all on unstamped paper), and requesting to have the decree executed by the District Munsif sitting as Small Cause Court Judge. On the 1st February the plaintiff appeared and applied on the regular side of the Court for the execution of the decree against the immoveable property of the defendant, and the execution was being carried out. Subsequently the plaintiff applied, on the Small Cause Court Side, for the execution of the decree against the person and personal property of the defendant.

The following were the questions submitted to the High Court:—

I. Whether a decree passed by a Small Cause Court of one district can be executed against the person or personal property within the jurisdiction of a Court of another district?

II. What are the documents to be submitted by the Court in which the decree is passed to the other Court to which a request for execution is made, and whether such documents are required to be engrossed on stamps?

No Counsel were instructed.

The Court delivered the following

JUDGMENT:—We are of opinion that process of execution against the person or personal property of a judgment-debtor may be issued on the decree of a Court of Small Causes by a Court in another district. Section 47 of Act XI of 1865 enacts that, except as is thereinbefore provided, the provisions of the Code of Civil Procedure shall, so far as the same are or may be applicable, extend to all suits and proceedings under the Act. Now the provisions in the Code relating to the execution of a decree out of the

jurisdiction of the Court which passed it are in their nature and operation very fit to be applied to the decree of a Court of Small Causes, and there is nothing in Sections 19 and 20 of Act XI of 1865, which are the only Sections in the Act providing for process of execution, to render the provisions of the Code in any way inapplicable to the enforcing of decrees against the person or moveable property. They make special provision for immediate execution on a verbal application to the Court passing the decree against the person or moveable property of the judgment-debtor, and for obtaining further execution in any other Court having general jurisdiction against the debtor's immoveable property within as well as without the limits of the jurisdiction of the Court passing the decree.

1869.
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Under these Sections, therefore, and the provisions of the Code, the decree of a Court of Small Causes can be executed by another Court against the person or moveable property of the debtor not within the limits of the jurisdiction of the Court passing the decree as well as against the immoveable property either within or without such limits. But, before issuing process of execution against the person or the moveable property, the Court receiving the decree is bound to see that the provisions in Sections 286 and 287 of the Code have been strictly complied with.

On the second question submitted, our opinion is that the documents required to be transmitted for the purpose of obtaining execution against the immoveable property of the debtor are a copy of the decree and a certificate of the sum remaining due under it, and the same when execution is sought against the debtor's person or moveable property, together with a copy of any order for execution that may have been passed.

We are also of opinion that Act XXVI of 1867 requires that the copies of the decree and the order for execution should be stamped,—the copy of the decree under Article 3, and the copy of the order for execution under Article 4, Schedule B. The certificate, we think, requires no stamp.