

not bound to have recourse to it before he instituted the suit, for, by the express terms of the prohibitory provision in Section 7, a sufficient tender of the proper puttah and an exchange of a puttah and muchilka are made alternative conditions of the right to bring a suit.

1868.
November 18.
R. C. No. 32
of 1868.

Appellate Jurisdiction (a)

Referred Case No. 29 of 1868.

VARADA CHETTY.....*Plaintiff.*

VAIYAPURY MUDALI.....*Defendant.*

The filing of an application for execution is a proceeding within the meaning of Section 20, Act XIV of 1859, sufficient to give the decree-holder a new period of three years.

CASE stated under Section 22, Act XI of 1865, by the District Munsif of Tripatur in Suit No. 283 of 1864.

1868.
November 25.
R. C. No. 29
of 1868.

No Counsel were instructed.

The Court delivered the following

JUDGMENT :—The question referred to us is whether the filing of an application for execution of a decree is a proceeding within the meaning of Section 20 of the Law of Limitation, sufficient to give the decree-holder a new period of three years.

The issuing of process of execution is clearly not necessary to save the bar of the limitation provided by Section 20 of Act XIV of 1859. The right to take a proceeding simply for the purpose of keeping the decree in force is plainly recognised by the Section and given the same force as process to enforce the liability under it.

We are therefore of opinion that the filing in this case of the written application for execution, in the form required by Section 212 of the Civil Procedure Code, was a proceeding to keep the decree in force within the meaning of the Section.