

(1879) 09 AHC CK 0001

Allahabad High Court

Case No: None

Shib Dat

APPELLANT

Vs

Kalka Prasad

RESPONDENT

Date of Decision: Sept. 2, 1879

Citation: (1880) ILR (All) 443

Hon'ble Judges: Straight, J; Spankie, J

Bench: Division Bench

Judgement

Spankie, J.

In my opinion the decree-holder was bound strictly by the terms of the decree. When the first default occurred, under the wording of the decree, he was bound to execute it in one lump. The instalment arrangement then ceased. If the decree-holder chose to continue to receive instalments, he did so at his own risk. When the acknowledgment of the balance due was made, it seems to me that the decree was already dead, and could no longer be executed. Though the cases cited *Kristo Komal Singh v. Huree Sardar* 13 W.R. F.B.44; and *Hira Lal Mookerji v. Roy Dhampat Singh* 24 W.R. 282 may not be strictly in point, the principle upon which they proceed applies to this case. I would decree the appeal and reverse the order of the Court below with costs.