
(1880) 01 AHC CK 0013

Allahabad High Court

Case No: None

Bachchu

APPELLANT

Vs

Madad Ali

RESPONDENT

Date of Decision: Jan. 26, 1880

Citation: (1880) ILR (All) 649

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

Bench: Division Bench

Final Decision: Allowed

Judgement

Oldfield, J.

The defendant borrowed from the plaintiff the sum of Rs. 125 at one per cent. interest per mensem, pledging as security an annuity of Rs. 106-2-0, called "nankar" allowance, which the defendant received from the firm of Sadaranji and Jairamji, and the plaintiff has brought this suit to recover the money lent with interest, by enforcement of the lien on the annuity pledged in the bond and against the defendant personally. The Court of First Instance decreed the claim, with costs and interest at eight annas per cent. per mensem, but in the decree allowed the defendant a period of two years for payment of the amount decreed. The lower Appellate Court affirmed the decree. The plaintiff in second appeal has objected to that part of the decree allowing the defendant the option to pay within two years, and there is no doubt the objection is valid.

2. The effect of the order of the Court is that the decree-holder is debarred from taking out execution of his decree or having it satisfied till the expiry of two years from date of the decree, and there is no authority in the CPC for a Court to make such an order. u/s 210 in all decrees for the payment of money the Court may for sufficient reason order that the amount shall be paid by instalments, but this section is inapplicable, for the decretal order is not for payment by instalments, and it is doubtful whether the section will apply to a decree of the nature of the decree made in this suit, which is for something more than the payment of money. Moreover, it

cannot be held that any sufficient reason is shown in this case for allowing defendant time for payment. We decree the appeal with costs, and modify the decrees of the lower Courts, by cancelling that portion which allows two years within which the amount decreed is to be satisfied.