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(1909) 11 CAL CK 0003

Calcutta High Court

Case No: None

Narsingh Dayal Singh and Others		APPELLANT
	Vs	
Kali Charan Singh		RESPONDENT

Date of Decision: Nov. 26, 1909

Citation: (1909) 11 CAL CK 0003

Judgement

1. The only question raised in this appeal is whether the lower Court was right in the view which it took that the application made on the 12th

August 1904 was an application to the proper Court to take some steps-in-aid of execution of the decree. The application was to the effect that

the Court would allow the applicant a week''s time to adduce evidence to prove that the notice u/s 248, Civil Procedure Code, had been duly

served. That-application was dismissed and the question is whether that application was an application in aid of execution. The learned pleader for

the appellant admits that the execution. could not proceed without proof of due service of the notice and it has been held by this Court that an

application to the Court to do an act in aid of execution, even though it is refused, is an application within the meaning of the article of the Limitation

Act for the purpose of saving limitation. In this case, we are of opinion that the Object of the applicant'' was to induce the Court to do an act in

furtherance of the execution, that is to say, to afford time within which proof of the service of the notice could be given. It was not an ordinary

application for adjournment, but, so faunas, we gather from the facts, it was an application made with a definite object in order to obtain from the

Court, an order in furtherance of the execution of the decree. In these circumstances, we think that the order is not open to objection, and that,

there fore, it should be confirmed. The appeal is accordingly dismissed with costs, two gold mohurs.