

(1877) 09 CAL CK 0005

Calcutta High Court

Case No: None

Chunder Coomar Roy
and Others

APPELLANT

Vs

Bhogobutty Prosonno
Roy and Another

RESPONDENT

Date of Decision: Sept. 11, 1877

Citation: (1878) ILR (Cal) 236

Hon'ble Judges: Richard Garth, C.J; Markby, J; Macpherson, J; L.S. Jackson, J; Ainslie, J

Bench: Full Bench

Judgement

Richard Garth, C.J.

We are of opinion that "applying to enforce the decree" in Article 167 means the application (under Section 212, CPC or otherwise) by which proceedings in execution are commenced, and not applications of an incidental kind made during the pendency of such proceedings.

2. But we also think that some meaning must be given to the alternative expression "keep in force" occurring in the same article, and that consequently in cases governed by Act IX of 1871, a decree-holder who has applied to the Court simpliciter "to keep the decree in force" may, within three years from the date of such last named application, obtain execution of his decree.

Ainslie, J.

3. I accept the decision of my learned colleagues as the proper answer to the question put.