

(1880) 03 CAL CK 0013

Calcutta High Court

Case No: None

Govind Chunder
Goswami

APPELLANT

Vs

Rungunmoney

RESPONDENT

Date of Decision: March 18, 1880

Citation: (1881) ILR (Cal) 60

Hon'ble Judges: Wilson, J

Bench: Single Bench

Judgement

Wilson, J.

In this ease a decree had been made and a reference ordered. Then in 1875 the case was struck out of the reference list under Rule 537 in Mr. Belchambers" book, and the application now made is to restore it. The application made is to reconstitute the suit and restore it. The Court of appeal in this case has decided the effect of this rule, and held, that the case being struck out is not to put an end to the suit, but that it is an existing suit, so that it can be reconstituted. It was contended that the Court had no power to grant the second part of the application, namely, to restore the case, and the objection is taken on the ground of limitation; Article 178 of the third division of the Schedule to the Act.

2. Under that article the period of limitation was three years. The words of that article are perfectly general: "Applications for which no period of limitation is "provided elsewhere in this schedule, or by the Code of Civil Procedure, Section 230."

3. But as in all cases where general words are used, the general words must be construed with some limitation with reference to the words they follow. I do not propose to attempt to say what class of applications fall under this article, but I do not think that article applies to this case.

4. This is a pending suit; it has not terminated; and the application is, that the Court should deal in a certain way with its own cause, I do not think the Legislature intended to include every application to the Court in reference to its own list, such as application to transfer a case from one board to another, to transfer a case to the bottom of the board, change of attorneys, and so forth. The Legislature did not intend to deal with such applications as this, and I do not think the article applies to this application. Even if the case fell within the article, I do not think I should feel constrained to say that this application should be refused. One may fairly say when the Court allows a suit to be reconstituted, a new right accrues and the limitation runs from that time.

5. The application is granted in the terms of the petition, that is to say, the suit will be reconstituted as asked for, and will take its place in the reference list.