

(1868) 03 CAL CK 0008

Calcutta High Court

Case No: Miscellaneous Regular Appeal No. 507 of 1867

Leake

APPELLANT

Vs

Daniel

RESPONDENT

Date of Decision: March 19, 1868

Judgement

Sir Barnes Peacock, Kt., C.J., Phear, Macpherson and Mitter, JJ.

It appears to me to be clear that when application for execution was made in the Shahabad Court, that Court was bound by Act XIV of 1859, and had power to decide whether or not it was barred by that Statute from issuing process of execution. A question was raised in argument as to what law of limitation would apply, if the Court in which the decree was obtained, and that to which it was transmitted, were governed by different laws of limitation. It is unnecessary for us to determine what would be the law applicable to such a case; but, speaking for myself only, I would say that it appears to have been the intention of the Legislature under s. 287 that the of law limitation by which the Court to which the decree was transmitted was bound should be the law. It is a general rule that Statutes of Limitation affect the remedy, and not the law.

2. The case will be sent back to the Division Bench to be dealt with according to its merits.

Jackson, J.

I concur in this judgment, the question of diversity of laws of limitation not arising in this case.