
(1916) 11 AHC CK 0028
In the Allahabad High Court

Bhagelu Sahai and Another

APPELLANT

Vs

Ram Autar Shukul

RESPONDENT

Date of Decision : 23-11-1916

Acts Referred:

Limitation Act, 1963 — Section 12

Citation : AIR 1917 All 325(1) : 37 Ind. Cas. 144

Hon'ble Judges : Henry Richards, C.J;P. C. Banerji, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. In this case the plaintiff obtained a decree conditional upon his paying into Court a certain sum of money within "thirty days of the decree becoming final." Thirty days is the time allowed for filing appeals. But this time is extended by Section 12 of the Limitation Act which provides that the time necessary for obtaining a copy of the judgment shall be excluded in computing the thirty days. The plaintiff did not deposit the money within thirty days but he did deposit the money before the time had expired within which the defendant might appeal. The question, therefore, which arises for decision is this: Was this money paid in within 30 days of the decree becoming "final". A learned Judge of this Court has decided in the affirmative. We think that his view is correct. There is no doubt a considerable conflict of authority and we are entitled, therefore, to deal with the case upon the view that we think to be correct. The whole object of the provision in the decree giving the plaintiff thirty days after the decree had become final, was to obviate the plaintiff having unnecessarily to bring money into Court and allow it to remain there idle during all the time that an appeal against the decree would be pending. The object, therefore, of the provision in the decree would be defeated if the plaintiff was obliged to bring his money into Court before the time had expired within which the defendant might prefer an appeal. We dismiss the appeal with costs.