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**(1886) 03 CAL CK 0006**  
**In the Calcutta High Court**

Bishtoo Lal Mukhopadaya

APPELLANT

Vs

Tarini Das Bandyopadhyaya and Another

RESPONDENT

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**Date of Decision :** 11-03-1886

**Acts Referred:**

Limitation Act, 1963 — Article 179

**Citation :** (1885) ILR (Cal) 609

**Hon'ble Judges :** Ghose, J;Cunningham, J

**Bench :** Division Bench

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**Judgement**

Cunningham and Ghose, JJ.—The question in this case is, whether an application by a judgment-creditor to bring an execution proceeding on the file, and to record his certificate of the payment of a sum of money by the judgment-debtor, is an application to take some step in aid of execution of the decree, within the meaning of para. 4, Article 179 of the second schedule of the Limitation Act. We agree in the opinion of the lower Appellate Court that it is. Section 258 forms a part of the heading E in the Procedure Code, which deals with the mode of executing decrees. Section 257 under that heading provides that one way in which money payable under a decree may be paid is that it may be paid out of Court to the decree-holder. And Section 258 then goes on to specify the mode in which this transaction is to take place, viz., that the judgment-creditor is to certify the payment to the Court. If he does not, provision is made to enable the judgment-debtor to compel him to do so. We must therefore consider that when a judgment-creditor comes into Court and certifies to, the Court the payment of a sum, that proceeding takes place in consequence of an arrangement as to payment between him and the judgment-debtor, and because if he had not certified, the judgment-debtor could, under the law, compel him to do so. The effect of the certificate is to satisfy the decree so far as the sum certified is concerned. Therefore, we think that the Court below is right in holding that the application in question is an application to the Court to do something in aid of the execution of the decree. And in holding this, we in no way conflict with previous rulings of this Court, that mere taking money out of Court is not so. The appeal

is dismissed with costs.