
(1935) 10 AHC CK 0026
In the Allahabad High Court

L. Dina Nath

APPELLANT

Vs

Collector of Farrukhabad

RESPONDENT

Date of Decision : 15-10-1935

Acts Referred:

Limitation Act, 1963 — Section 6

Citation : AIR 1936 All 63

Hon'ble Judges : Ganga Nath, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Ganga Nath, J.—This is a judgment debtor's appeal arising out of execution proceedings. A decree was obtained by the Collector of Farrukhabad, as manager of the Court of Wards in charge of the estate of Suraj Narain and Raj Narayan minors, more than six years before the execution application was made. An objection was filed by the appellant—that the application for execution of the decree was time-barred. Both the Courts below have disallowed the objection on the ground that the decree-holders are minors and therefore the execution of the decree cannot be regarded as barred by limitation. It was urged by the learned Counsel for the appellant that Section 6, Lim. Act does not apply to the case because the decree has been obtained in the name of the Collector. Section 6, Lim. Act, lays down:

Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the period of limitation is to be reckoned, a minor, or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time prescribed therefore in Col. 3 of Schedule 1.

2. The question that arises for determination therefore is whether the Collector is the decree-holder or the minors are the decree-holders; because if the minors

are the decree-holders, they will have the benefit of Section 6, Lim. Act. Section 16, U.P. Court of Wards Act lays down that the whole of the moveable and Immovable property of a ward shall be deemed to be under the superintendence of the Court of Wards. The position of the Collector therefore is that of superintendent or manager. Section 55 of the same Act lays down:

No ward shall sue or be sued nor shall any proceedings be taken in the civil Court otherwise than by and in the name of the Collector in charge of his property or such other person as the Court of Wards may appoint in this behalf.

3. It will appear from it that it is the ward who sues, though in the name of the Collector, who is in charge of his property. There can thus be no doubt [that the minors are the decree-holders and as the decree-holders were minors at the time from which the period of limitation for the execution of the decree was to be reckoned, the decree-holders have the benefit of Section 6, Lim. Act and there is no bar of limitation. It is therefore ordered that the appeal be dismissed with costs. Permission to file a Letters Patent appeal is rejected.