

(1889) 06 CAL CK 0008
In the Calcutta High Court

Umesh Chunder Dutta and Others

APPELLANT

Vs

Soonder Narain Deo and Others

RESPONDENT

Date of Decision : 18-06-1889

Acts Referred:

Citation : (1889) ILR (Cal) 747

Hon'ble Judges : Prinsep, J; Hill, J

Bench : Division Bench

Judgement

Prinsep and Hill, JJ.—The lower Courts have concurrently held that this application to execute is barred by limitation.

2. The appellants' pleader contends that the application is within three years, inasmuch as it was within three years from the date of the appearance of his pleader to oppose an application made by the judgment-debtor to set aside the sale held in execution. We agree with the lower Court that the appearance of the pleader to oppose the proceedings taken by the judgment-debtor cannot properly be regarded as an application within the terms of Article 179 to take some step in aid of execution. It seems to us rather that the application, contemplated by that article of the Limitation Act, is an application to obtain some order of the Court in furtherance of the execution of the decree. The appearance of the pleader cannot be regarded as any such application. The appeal is therefore dismissed with costs.