
(1923) 04 BOM CK 0023
In the Bombay High Court
Case No : Second Appeal No. 171 of 1923

Vishnu Nagappa Venkatesh Bhat

APPELLANT

Vs

Narasinha Pandurag Prabhu

RESPONDENT

Date of Decision : 03-04-1923

Acts Referred:

Citation : AIR 1923 Bom 461 : (1923) 25 BOMLR 490 : 73 Ind. Cas. 1011

Hon'ble Judges : Norman Macleod, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Norman Macleod, Kt., C.J.—This is an application made by the decree, holder for execution of his decree, the application having been made on June 15, 1921. The previous application for execution was presented on May 25, 1918, and it is conceded that the present application must be time-barred unless between these two dates something has been done which would set a new period of limitation running. The appellant relied upon an application made by both the parties to the Court to postpone the application in the Darkhast of May 25, 1918, with a view to a compromise being arrived at between the parties. It is difficult to see how such an application can be considered as a step-in-aid of execution. There was no application made to the Court to do something which would assist the decree-holder in furthering the execution of the decree. On the other hand the application was similar to the application in Abdul Kader Rowther v. Krishnan Malaval Nair ILR (1913) Mad. 695 which was called an application to get an order in retardation, which would not in the ordinary course be considered as a step-in-aid of execution, j We think the learned Judge was right in saying that this application was not intended as a step towards execution, but it was intended as a step which, if successful, would avoid the necessity for execution. If the suggestion for a compromise failed, then it was necessary for the decree-holder, within three years from the date of the Darkhast, to file another Darkhast. The appeal therefore, is dismissed.