

Ram Nath And Anr. vs Ram Prasad on 11 September, 1953

Equivalent citations: AIR1954ALL152, AIR 1954 ALLAHABAD 152

JUDGMENT

Randhir Singh, J.

1. This is a second appeal in an execution matter. One Ram Prasad obtained a simple money decree against Ram Asrey. Ram Asrey filed a revision against the decree in the Chief Court as also an appeal before the District Judge of Barabanki. The hearing of the appeal was adjourned on account of the revision. The revision application was ultimately dismissed on 17-1-1944. Thereafter the appeal also came up for hearing before the District Judge. On that date the appellant Ram Asrey did not appear and the District Judge after noting the absence of the appellant Ram Asrey and the presence of the respondent dismissed the appeal with costs.

The decree-holder put his decree into execution. An objection was raised on the ground of limitation and it was urged that the decree having been put into execution more than three years after the date of the trial Court's decree, the execution application was barred by time. On behalf of the decree-holder it was contended that the starting point for the period of limitation would be the date of the final decree passed by the District Judge in appeal. The decree-holder's contention prevailed, in the execution Court as also with the District Judge. The Judgment-debtor has now come up in second appeal.

2. The respondent is absent.

3. The only point which has been pressed to arguments in this case is the point of limitation. There is a recent decision of this Court in -- 'Ram Kumar v. Chaube Rudra Dutt', AIR 1951 All 493 A) in which a similar question of limitation came up for decision. It has been held by the Division Bench that the date on which the appeal was dismissed would be the date for reckoning the period of limitation under Art. 182(2), Limitation Act. The earlier Privy Council cases have also been discussed in this reported case. In view of this Division Bench ruling, the argument of the learned counsel for the appellant has no force. The appeal was rightly decided by the Court below, and the present appeal has no force.

4. The appeal is dismissed. I make no order as to costs.