C.P.C., 1908 ORDER XX (RULES 10-20): A CASE STUDY 1990-2010 (JULY)

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A CASE STUDY 1990-2010(JULY)

ORDER XX (RULES 10-20) C.P.C., 1908

National Law University, Delhi

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CHAPTER – I

INTRODUCTION

In general rules 9 to 19 in Order XX of the code are illustrative of contents of decrees in certain specified categories of suit.²

1.1 Research scheme

The research scheme undertaken by the researcher would comprise of doing a doctrinal study of the Supreme Court cases available in All India Reporter at the library of the National Law University, Delhi related to Order XX Rules 10 to 20 of the Civil Procedure Code. Besides that the researcher would take the help of some of the commentaries on the Code of Civil Procedure to look into some of the concepts and theories related to the specific section.

1.2 Research Techniques for Data Collection

Research technique of analysis, critique, and review of the theories would be intended to be employed.

1.3 Research Methodology

The researcher has followed the doctrinal method of research throughout the project and the MLA system of formatting has been adopted by him.

1.4 Scheme of Chapterisation

The first chapter would comprise to giving a general introduction to the project and also state the research scheme, the research technique, the research methodology and the scheme of chapterisation which would be followed in the project. The second chapter would explain the scope of the order in details. The third chapter would comprise the core of the project and it would include the four cases taken up by the researcher for his case study. Finally, the fourth chapter would conclude the project.

1.5 Footnoting Style to be adopted

National Law University standard style of footnoting will be followed throughout the project.

² Lakshmi Ram v. Hariprasad, AIR 2003 SC 351.
CHAPTER – II

SCOPE OF THE ORDER

In underlining the scope of the various rules, specifically from rule 10 to rule 20 of Order XX, we see that Rule 10 lays down that where a suit is for movable property and the decree is for the delivery of such property, the decree has to state the amount of money to be paid as an alternative if the delivery of such property is not made.

Rule 11 of Order XX makes provision for postponement of payment of a money decree and of its payment in installments and lays down the procedure for directing payment of money decree in installments. It required that any provisions directing that payment of the amount decreed shall be postponed or shall be made by installments may be incorporated in the decree. An important feature is that the Rule is not applicable to mortgage suits.

Rule 12 of Order XX of the Code, makes and exception to the general rule that the plaintiff can only sue on such cause of action as has arisen on the date of institution of the suit. It does away with the necessity of filing a suit for future mesne profits if the court makes a decree providing for future mesne profits. It enables the Court to pass a decree for past and future mesne profits also where a suit if for the possession of immovable property. However, court can make such a decree only for a limited period commencing from the date of the suit till date of any of the three events mentioned in clause (c) of Rule 12(1).

Sub rule (1) enables the court to direct enquiry as to rent or mesne profits for a particular period only from the date of institution of the suit. The decree holder, if a decree is passed in his favour under the said provisions can have the mesne profits ascertained for the period up to the date the possession of the property is delivered to him or up to the date of relinquishment of possession through court or until expiration of three years from the date of decree. The provisions in clause (c) of Rule 12(1) further restricts the entitlement of the decree-holder to have the mesne profits ascertained for certain period, i.e. till the date on which any of the three events mentioned in clause (c) first occurs.

Sub-rule (2) of Rule 12 provides that where an enquiry is directed under clause (b) or (c) of sub-rule (1), a final decree in respect of the rent or mesne profits shall be passed in accordance

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3 M. Ramnarain Pvt Ltd. V. State Trading Corp, AIR 1983 SC 786.
with the result of such enquiry. Unlike Order XX, Rule 13 or 16, Rule 12 is not mandatory and does not insist on a preliminary decree containing all the directions referred to in rule 12.

Rule 13 of Order XX of the Code deals with all kinds of administrative suits and is general in its terms. The scope of administrative suit clearly in one to collect the assets of the deceased to pay off the debts and other legal charges, to take account of the income and expenses of the estate, and to find out what is the residue of estate available for distribution amongst the heirs of the deceased and in what shares and distribute the same amongst the heirs of the deceased. It is implicit in an administrative suit that accounts have to be taken. Such a suit is for an account of the property of the deceased and for its due administration under the decree of the court. It provides that the Court shall first pass the preliminary decree directing accounts and enquiries. In appendix D, form no. 17 prescribes the form of the preliminary decree in administrative suit. In a suit for administration the court has to necessarily ascertain what properties belonged to the deceased at the time of his death. The procedure and forms which are provided under Rule 13 are only illustrative and not exhaustive.

Rule 14 specifically deals specifically with pre-emption decrees. Where under the court when decreeing the claim to pre-emption is required to specify in the decree the time on or before which the pre-emption money shall be paid, if not already paid, and further if it is not so paid, the suit shall stand dismissed with costs The provisions of Order XX Rule 14 is mandatory in nature. Further, the time to deposit the amount in pre-emption suit cannot be extended under Section 148 of the Code.

Rule 15 of Order XX prescribes what a decree for the dissolution of a partnership firm should contain and has furnished a definition as to its scope and content. In a suit for dissolution of partnership, the partnership assets have to be valued, the accounts have to be ascertained, their discharge has to be provided for and the balance of the partnership assets should be directed to be divided between partners according to their share. The rule applies to partnership at will as well as those other than will.

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5 Purushattam and Anr v. M/S Nagvastra, AIR 1979 Bom 60.
9 Ibid.
10 Supra no. 6.
Rule 16 provides that in a suit for an account of pecuniary transactions between a principal and an agent and in any other suits not herein before provided for, where it is necessary, in Order to ascertain the amount of money due to or from any party, that an account should be taken. The court shall before passing its final decree pass a preliminary decree directing such accounts to be taken as it thinks fit. Rule 16 does not create or confer any substantive right to seek rendition of accounts in any particular type of cases, nor in all types of cases. It merely refers to a rule of procedure and would apply where there is an existing right to seek rendition of accounts having regard to the relationship between the parties. It is well settled that the right to claim rendition of accounts in an unusual form of relief granted only in certain specific cases and to be claimed when the relationship between the parties is such that the rendition of accounts the only relief which will enable the plaintiff to satisfactorily assert his legal right.  

Rule 17 basically deals with the special directions as to accounts. Rule 18 envisages passing of passing of a decree for partition of property or separate possession of a share therein. Sub-rule (2) provides that where the decree relates to any immovable property and the partition or separation cannot be conveniently made without further enquiry, then the court is required to pass a preliminary decree declaring the rights of several parties interested in the property. The court is also empowered to give such further direction as may be required in this behalf.  

Rule 19 relates to Decree when set-off is allowed. Lastly, Rule 20 relates to certified copies of judgment and decree to be furnished to the parties on application to the Court and their expense.

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CHAPTER – II
CASE STUDY
Sri Inder Sain Bedi (Dead) by Lrs.
v.
Chopra Electricals.\textsuperscript{13}

Facts:
Appellant filed a suit for decree of possession and for grant of mesne profit/damages by ejectment of respondent from suit property. He alleges that although suit property was taken by respondent as licencee for a period of 11 months, respondent continued to remain in possession even after expiry of period of license. The appellant issues a notice under Section 106 terminating tenancy of respondent as respondent was not vacating the property. The suit was filed for possession.

Procedural Facts:
The suit was challenged by respondent on grounds that since tenancy between parties having being created for manufacturing purposes, the same could only be terminated only by giving six months notice and suit for possession of a part of tenanted premises was not maintainable. The trial court passed a decree of eviction, holding that tenancy had been validity terminated by giving two months notice in terms of clause 15 of lease / licence document and that suit had been filed for entire tenanted premises. However, the High Court recorded that on expiry of period of licence, respondent was taken as a tenant of entire portion property, thus it held that there was splitting of tenancy which was not permissible in law. Hence, this appeal to the Supreme Court.

Relevant Issues:
1. Whether the plaintiff is entitled to a decree for possession and whether the tenancy of the defendant is terminated validly?
2. Whether the plaintiff is entitled to claim damages/ mesne profits for use and occupation of the disputed property from the defendants?

\textsuperscript{13} (2004) 7 SCC 277
Contentions:

With regard to the first issue, the validity of the notice terminating of the tenancy as also the right of the appellant to claim possession of the suit property was disputed by the respondent on two grounds: (1) that the tenancy between the parties had been created for manufacturing purposes and the same could be terminated in terms of section 106 of the Act by giving six months notice which was not done; and (2) that the suit for possession of a part of tenanted premises was not maintainable and relief of ejectment from a part of tenanted premises could not be granted.

With respect to the second issue, the respondent contended that the tenancy of the respondent had not been validity terminated and therefore the respondent having failed to vacate the tenanted premises after improper termination of the tenancy, the appellant was not entitled to claim mesne profits/damages from the respondent for use and occupation of the suit property under Order XX Rule 12.

Judgment:

With respect to the contentions of the respondent, both their contentions were negatived by the Trial Court which was reversed by the High Court, however later upheld by Supreme Court and the suit was decreed. It was held that tenancy had been terminated validly by giving two months notice in terms of clause 15 of the lease/licence document. Since the lease/licence document was not registered document and the tenancy was from month to month the same could be terminated by giving 15 days notice under Section 106 of the Act.

To answer the second contention of the respondents, it was held that the tenancy of the respondent had been validity terminated and respondent having failed to vacate the tenanted premises after termination of the tenancy, the appellant is entitled to claim mesne profits/damages from the respondent for use and occupation of the suit property under Order XX Rule 12.

Thus, the High Court has erred in holding that the appellant had split the tenancy and had asked for possession of a portion of the tenanted premises. The High Court has also erred in holding that the tenancy had not been validly terminated by serving a notice in accordance with law.
Critique and Analysis:

A critical analysis of this case reveals that the Trial Court had adjudged the case correctly which had been later upheld by the Supreme Court. However, the High Court has misconstrued and misinterpreted the two deeds of license/lease as well as the plaint in observing that the suit was filed only with respect to the portion shown in red colour in the plan whereas the tenancy had been created for both the portion shown in red colour as well as green and thus there was a splitting of tenancy which was not permissible in law.

Also the validity of the notice as also the right of the appellant to claim possession of the tenanted premises was questioned by the respondent on the ground that as tenancy between the parties had been created for manufacturing purposes the same could be terminated only after giving six months' notice to quit as provided under Section 106 of the Act, which was not done. The trial Court has negatived this submission by holding that according to the provision of Section 106 of the Act a lease for manufacturing purpose is deemed to be a lease on year to year basis but the same was subject to the contract to the contrary if any between the landlord and the tenant. The landlord and the tenant could agree to create a tenancy even for manufacturing purpose for a period of less than one year because in Clause 15 of the lease document it was specifically mentioned that the tenancy could be terminated by either of the parties by giving notice of two months.

Hence, the judgment of the High Court was correctly set aside by the Supreme Court and the judgment and decree passed by the Trial Court was restored.
Anderson Wright and Co.  
v.  
Amar Nath Roy and Ors.\(^{14}\)

Facts:

The respondents initiated proceedings for the eviction of the appellants on the ground of the premises having been sublet or parted with possession by the appellants. The suit property is situated in a prime locality of Kolkata and the respondents are owner-cum-landlords of that part of the property which is held on tenancy by the appellants. The area in possession of the appellants was situated on the third floor and measures 6000 sq. ft. according to the respondents but is 5678 sq.ft according to the appellants. The tenancy was created in the year 1939 at a monthly rent of Rs. 853.87p. per month.

Procedural Facts:

The eviction was denied by the trial court. The appeal preferred by the respondents has been allowed by the High Court and the appellants have been directed to be evicted. The High Court has found that the tenancy premises were sublet or parted with possession by the appellants in favour of four companies, the alleged sub-tenants, who were carrying on business in the suit premises. Out of these four companies, three were still carrying on business while the fourth had stopped business by the time the case came to be decided. After, a leave to appeal was granted by the Supreme Court to the appellants and the judgment and decree for eviction passed by the High Court has been directed to remain stayed, the respondents filed a suite seeking direction to the appellants to pay mesne profits under Order XX Rule 12 of the CPC.

Issues:

Whether the respondent is entitled to claim damages/ mesne profits under Order XX Rule 12 of the CPC?

\(^{14}\) AIR 2005 SC 2457
Contentions:

The respondents contended that the appellants pay an amount of Rs. 1,80,000/- per month to the respondents during the hearing of the appeal. It was submitted that the suit premises could fetch a rent @ Rs. 30/- per sq. ft. Further, the property tax payable by the respondents to the local authority is Rs. 2,32,000/- per annum, while the appellants are paying a meager amount of Rs. 837.87p. per month to the respondents.

On the contrast, the learned counsel for the appellants submitted that the appellants cannot be held liable to pay anything more than the standard rent of the premises, in spite of the decree for eviction having been passed as the same is subjudice.

Judgment:

The Supreme Court dismissed the suit in a summery procedure, stating that with effect from 12.3.2004, the date of the decree passed by the High Court, the appellants shall be liable to pay, or deposit for payment, to the respondent - landlords, an amount calculated @ Rs. 15/- per sq. ft. for an area of 5,678 sq. ft., the area which according to the appellants is in their possession. Further, with effect from 1st July, 2005 the appellants shall continue to pay or deposit for payment to the respondents - landlords, an amount calculated at the same rate month by month and by the 15th day of that month.

Lastly, the court directed the respondents to file an undertaking on affidavit, making a statement that the amount recovered by the respondents in terms of this order shall be refunded or remain available for adjustment in terms of any directions which this Court may make at the end. If any amount becomes liable to be refunded consistently with the decision of this Court in the appeal, the respondents shall refund the same, within the time appointed by the Court for the purpose and the amount shall remain a charge on the suit property.

Critique and Analysis:

An analysis of the judgment reveals that the court primarily relied on the case of Atma Ram Properties (P) Ltd. v. Federal Motors (P) Ltd which has laid down that once a decree for eviction has been passed, in the event of execution of decree for eviction being stayed, the appellants can be put on such reasonable terms, as would in the opinion of the appellate court reasonably compensate the decree holder for loss occasioned by delay in execution of the decree.
by the grant of stay in the event of the appeal being dismissed. It was also held that with effect from the date of decree of eviction, the tenant is liable to pay mesne profits or compensation for use and occupation of the premises at the same rate at which the landlord would have been able to let out the premises on being vacated by the tenant. While determining the quantum of the amount so receivable by the landlord, the landlord is not bound by the contractual rate of rent which was prevalent prior to the date of decree.

The court also relied on the affidavit and counter affidavit filed by both the parties, placing on record material giving the Court an idea of the rate of rent generally prevalent in the locality where the suit property is situated. Canara Bank on the first floor of that building was paying rent @ Rs. 25/- per sq. ft. other than maintenance and municipal taxes while, Miss Rumpa Ghosh, a tenant from the year 2002 was paying rent @ Rs. 32/- per sq. ft. Taking an overall view of the material made available by the parties, the court correctly set out that the appellants should, from the date of the decree of the eviction, pay mesne profits/compensation for use and occupation @ Rs. 15/- per sq. ft. subject to final determination of the same by a competent forum.
Procedural Facts:

The facts in short for deciding the question of law arising in this appeal are that on August 2, 1955, a preliminary decree in Special. Civil Suit was passed declaring that Chandrakant, first respondent was entitled to 1/6th share and the appellants were entitled to 5/6th share in the suit properties. An order was made on April 19, 1958 directing preparation of a final decree. On December 19, 1960, first respondent supplied non-judicial stamps to engross and sign the final decree to the extent of his 1/6th share. On January 11, 1961, a final decree, in that behalf was engrossed on the stamped paper and signed by the trial court. Since the appellants had not supplied the non-judicial stamps, no final decree was made qua them. On the other hand, a Darkhast was filed by them for execution of the preliminary decree which was subsequently dismissed as withdrawn. Another Darkhast was filed in 1965 which was dismissed on March 13, 1968 as the application was barred by limitation.

In First Appeal, the High Court held that "in view of the fact that no final decree was passed on non-judicial stamps, there was no decree in existence for its execution". Therefore, on August 12, 1975, the appeal was dismissed. On August 14, 1975, the appellants filed Misc. Application before the trial court to accept the non-judicial stamps and to pass a final decree. The said application was contested by the respondent pleading bar of limitation. The trial court overruled the objection and allowed the application on 3.2.76 holding that the application was not barred by limitation. In First Appeal, learned single Judge of the High Court held that the limitation began to run from the date when the direction was given to pass final decree. Since the application was filed after the expiry of period of limitation counted from that date, the Court held on March 7, 1977 that it was barred by limitation.

Issues:

The issue under consideration is as to when does the limitation begin to run for filing an application to pass final decree on stamped papers.

15 AIR 1995 SC 1211
Contentions:

Order 20 Rule 7 of CPC envisages that the decree "shall bear the day on which the judgment was pronounced, and, when the judge has satisfied himself that the decree has been drawn up in accordance with the judgment, he shall sign the decree".

Further, Order 20 Rule 18 envisages passing of a decree for partition of property or for separate possession of a share therein. Sub-rule (2) is material and provides that "if and in so far as such decree relates to any other immovable property or to movable property, the Court may, if the partition or separation cannot be conveniently made without further inquiry, pass a preliminary decree declaring the rights of the several parties interested in the property and giving such further directions as may be required". (Emphasis added)

Thus, it could be seen that where the decree relates to any immovable property and the partition or separation cannot be conveniently made without further inquiry, then the court is required to pass a preliminary decree declaring the rights of several parties interested in the property. The court is also empowered to give such further directions as may be required in this behalf. A preliminary decree in a partition action, is a step in the suit which continues until the final decree is passed. In a suit for partition by a coparcenary or co-sharer, the court should not give a decree only for the plaintiffs share, it should consider shares of all the heirs after making them parties and then to pass a preliminary decree. The words "declaring the rights of the several parties interested in the property" in Sub-rule (2) would indicate that shares of the parties, other than the plaintiff(s), have to be taken into account while passing a preliminary decree. Therefore, preliminary decree for partition is only a declaration of the rights of the parties and the shares they have in the joint family or coparcenary property, which is the subject-matter of the suit. The final decree should specify the division by metes and bounds and it needs to be engrossed on stamped paper.

Judgment:

Accordingly, the appeals were finally allowed by the Supreme Court. The judgments and orders of the High Court were set aside and that of the trial court was confirmed. The trial court was directed first to pass the final decree and then to engross the same on the stamped papers already supplied by the appellants; if further stamped papers be needed, reasonable time would
be given to supply the same. The final decree would then be drawn thereon and the court would, thereafter, proceed with the execution of the final decree in accordance with law.

Critique and Analysis:

A critical analysis of the case reveals that the single Judge of the High Court held that the limitation began to run from the date when the direction was given by the civil court to pass the final decree and since the application was not made by the appellants within three years from that date, the application for execution stood barred.

The question was whether the aforesaid view was correct, since the decree is one which is prior to the Limitation Act, 1963, thus we are to look to the provisions contained in the Limitation Act, 1908, for deciding the controversy. Article 182 of the first schedule to the old Act envisages that "for the execution of a decree or order of any civil court not provided for by Article 183 or by Section 48 of CPC, the period of limitation of three years begins to run from the date the final order was passed on an application made in accordance with law to the proper court for execution, or to take some step in aid of execution of the decree or order."

Thus, it would be clear that where decree or order has been passed jointly against more person than one, the application shall take effect against them all, even if it is made by one or more. It is seen that the preliminary decree is a declaration of the rights of the parties with a charge on the properties to be allotted and a Commissioner is required to be appointed for partition of certain specified properties. Therefore, as envisaged in Sub-rule (2) of Rule 18 of Order 20, it was only a preliminary decree declaring the rights of the parties with power to the court to give further directions in that behalf. It is settled law that more than one final decree can be passed. With the passing of the final decree in respect of the share of the first respondent, the rights of the parties in respect of other properties have not been crystallised and no final decree dividing the properties by metes and bounds was passed nor any application was made to divide the properties in terms of the shares of the parties declared in the preliminary decree.
Facts:

Respondents 1 to 4 are the legal heirs of the original plaintiff Suram Singh. The father of Suram Singh named Nand Lal was joint owner of the land in question along with one Bassia. In the year 1940, Bassia sold the land to Harnam Singh, Munshi Ram and Tilak Chand. In July 1941, Suram Singh brought a suit for pre-emption of this sale against Harnam Singh, Munshi and Tilak Chand. The said suit was decreed on 31st January, 1942, and directed payment of pre-emption amount on or before 1st April, 1942. The said amount was deposited by Suram Singh in Court as per the terms of the decree.

The suit out of which the present appeal has arisen was filed by Suram Singh against successors in the interest of Harnam Singh, Munshi and Tilak Chand. The said suit was decreed on 31st January, 1942, and directed payment of pre-emption amount on or before 1st April, 1942. The said amount was deposited by Suram Singh in Court as per the terms of the decree.

The suit out of which the present appeal has arisen was filed by Suram Singh against successors in the interest of Harnam Singh, Munshi and Tilak Chand. The said suit was decreed on 31st January, 1942, and directed payment of pre-emption amount on or before 1st April, 1942. The said amount was deposited by Suram Singh in Court as per the terms of the decree.

Procedural Facts:

In the suit, the deposit of the preemption amount by the plaintiff Suram Singh before first April, 1942, was duly proved. The trial Court held that the plaintiff is the owner of the suit land though the possession is with the defendants without any title. The defendants had sought partition proceedings as their names continued in the revenue record. The trial Court held that the partition proceedings are void since the defendants have no title to the land and the said proceedings were not binding upon the plaintiff. In the first appeal, the District Judge reversed the judgment and decree of the trial Court. The District Judge allowing the appeal and dismissing the suit held that the defendants had continued in hostile possession since the rime of the passing of the decree in pre-emption suit in favour of the plaintiff and thus they had become owner by adverse possession prior to the institution of the suit.

16 AIR 2000 SC 1064
In the second appeal, the High Court, noticing that admittedly no plea with regard to adverse possession was raised by the defendants and the only plea taken by them was that they had come in possession as successors of the vendees, has reversed the aforesaid decision of the first appellate Court. The High Court has held that the plaintiff is owner in possession of the land and the defendants have been restrained from interfering with the ownership and possession of the plaintiff. Hence, the defendants have appealed to the Supreme Court.

Issues:

Whether plaintiff is the owner of the suit land though the possession is with the defendants without any title?

Contentions:

The only contention urged by the Learned Counsel of Appellants is that the possession having not been delivered to the plaintiff in terms of the pre-emption decree, the plaintiff cannot rely upon the said decree, particularly when the execution petition filed by the plaintiff was dismissed.

Judgment:

On the facts and circumstances of the case, no actual possession was required to be obtained or delivered. When there was threat to the title of the plaintiff, the suit was filed by him. Thus, the apex court found no infirmity in the decision of the High Court. Hence, the appeal was thus dismissed.

Critique and Analysis:

A critical analysis of the case reveals that reliance was placed on Rule 14(1) of Order 20, CPC, which reads as under, Where the Court decrees a claim to pre-emption in respect of a particular sale of property and the purchase money has not been paid into Court, the decree shall-

(a) specify a day on or before which the purchase-money shall be so paid, and
(b) direct that on payment into Court of such purchase-money, together with the costs (if any) decreed against the plaintiff, on or before the day referred to in Clause (a), the defendant shall deliver possession of the property to the plaintiff, whose title thereto shall be deemed to have
accrued from the date of such payment, but that, if the purchase-money and the costs (if any) are not so paid, the suit shall be dismissed with costs.

A plain reading of the aforesaid provision shows that the title to the decree-holder accrues from the date of the payment required to be made under a pre-emption decree. In view of the deposit by the original plaintiff of the pre-emption amount in terms of the pre-emption decree, the dismissal of the execution petition was inconsequential since the plaintiff was in joint possession of the land, which was part of joint khata.

The land sold by Bassia, which was subject-matter of the pre-emption suit, was not any particular part of the land of joint khata but was his undivided share therein. The share of Bassia had never been separated by way of partition before sale by him. The plaintiff was already in possession of the land along with other co-sharers. There is neither any plea nor any finding of partition having been effected by Bassia. Thus the decision by the apex court is totally justified.
CHAPTER – III

CONCLUSION

After completely analyzing Order XX and the cases related to it, the researcher is of the opinion that after hearing the court pronounces judgment. Section 33 of the code requires the court to pronounce judgment which is followed by a decree. Rule 1 to 5 of Order 20 deals with judgment. A judgment should contain a concise statement of case, points for determination, decision thereon and the reason for such decision. Rules 6 to 19 deal with decrees. As per the scheme of the code, the decree should follow the judgment and must agree with it. Every decree must be ‘self-contained’ and capable of execution without referring to the other documents or pleadings of the parties. It is a ‘mouthpiece of the suit in its immediate result. Rules 6-B and 20 provide for furnishing copy of judgment and decree to the parties on payment of charges. Rule 5-A enjoins the court to inform parties as to where an appeal would lie in cases where parties are not represented by pleaders.

Order XX makes it compulsory for a party filing appeal to annex the certified copy of the decree to the memorandum of appeal. Justice Malimath committee has pointed out that it takes a long time for obtaining certified copy of the decree and thus filing of appeal takes a long time. It is proposed to dispense with annexing certified copy of the decree along with memorandum of appeal and it is also proposed that the whole judgment shall be made available to the parties immediately after the judgment is pronounced.

With respect to the case analysis, in first case which was dealt by the researcher, Sri Inder Sain Bedi (Dead) by Lrs. v. Chopra Electricals, a critical analysis revealed that the trial court had adjudged the case correctly; however, the High Court had misconstrued and misinterpreted the two deeds of license/lease as well as the plaint. Also, the Trial Court with regard to the validity of the notice as the right of the appellant to claim possession of the tenanted premises which was questioned by the respondent on the ground that as tenancy between the parties had been created for manufacturing purposes the same could be terminated only after giving six months' notice to quit as provided under Section 106 of the Act, which was not done, had negatived the submission. This was according to the provision of Section 106 of the Act a lease for manufacturing purpose is deemed to be a lease on year to year basis but the same was subject to
the contract to the contrary if any between the landlord and the tenant. Hence, the judgment of the High Court was correctly set aside by the Supreme Court and the judgment and decree passed by the Trial Court was restored.

In the Second Case, Anderson Wright and Co. v. Amar Nath Roy and Ors., the judgment revealed that the court primarily relied on the case of Atma Ram Properties (P) Ltd. v. Federal Motors (P) Ltd which has laid down that once a decree for eviction has been passed, in the event of execution of decree for eviction being stayed, the appellants can be put on such reasonable terms, as would in the opinion of the appellate court reasonably compensate the decree holder for loss occasioned by delay in execution of the decree by the grant of stay in the event of the appeal being dismissed. Taking an overall view of the material made available by the parties, the court correctly set out that the appellants should, from the date of the decree of the eviction, pay mesne profits/compensation for use and occupation @ Rs. 15/- per sq. ft. subject to final determination of the same by a competent forum.

In the third case which was dealt by the researcher, i.e. Shankar Balwant Lokhande (dead) by L.R.s. v. Chandrakant Shankar Lokhande and Anr., a critical analysis of the case revealed that the single Judge of the High Court held that the limitation began to run from the date when the direction was given by the civil court to pass the final decree and since the application was not made by the appellants within three years from that date, the application for execution stood barred.

Lastly, with respect to the last case dealt by the researcher, i.e. Reshmu & Ors v. Rajinder Singh & Ors., a critical analysis of the case reveals that reliance was placed on Rule 14(1) of Order 20, CPC. A plain reading of the aforesaid provision shows that the title to the decree-holder accrues from the date of the payment required to be made under a pre-emption decree. In view of the deposit by the original plaintiff of the pre-emption amount in terms of the pre-emption decree, the dismissal of the execution petition was inconsequential since the plaintiff was in joint possession of the land, which was part of joint khata. Thus the decision by the apex court is totally justified.
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