

Shib Dat Vs. Kalka Prasad

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SooperKanoon Citation : sooperkanoon.com/456244

Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1880)ILR2All443

Judge : Spankie and ;Straight, JJ.

Appellant : Shib Dat

Respondent : Kalka Prasad

Judgement :

Spankie, J.

1. In my opinion the decree-holder was bound strictly by the terms of the decree. When the first default occurred, under the wording of the decree, he was bound to execute it in one lump. The instalment arrangement then ceased. If the decree-holder chose to continue to receive instalments, he did so at his own risk. When the acknowledgment of the balance due was made, it seems to me that the decree was already dead, and could no longer be executed. Though the cases cited *Kristo Komal Singh v. Huree Sardar* 13 W.R. F.B.44; and *Hira Lal Mookerji v. Roy Dhampat Singh* 24 W.R. 282 may not be strictly in point, the principle upon which they proceed applies to this case. I would decree the appeal and reverse the order of the Court below with costs.

