

(1879) 04 CAL CK 0011

Calcutta High Court

Case No: None

Golap Chand
Nowluckha

APPELLANT

Vs

Krishto Chunder Dass
Biswas

RESPONDENT

Date of Decision: April 23, 1879

Citation: (1880) ILR (Cal) 314

Hon'ble Judges: Mcdonell, J; Jackson, J

Bench: Division Bench

Judgement

Jackson, J.

The plaintiff's suit has been dismissed on the ground of limitation, the Munsif not having taken the trouble to read with care the terms of the present Limitation Act, XV of 1877. He says: "The plaintiff admits that his cause of action against the defendant accrued from the date of his discharge on the 6th Kartic 1283. This suit, brought after the lapse of one year from the above date, is evidently barred. The plaintiff cannot have extension of the time allowed by the special law for the realization of rent, because the Court remained closed on the 6th Kartic 1284, and subsequent dates. The new Limitation Act does not apply to cases under the Rent Law."

2. Now, it is quite inaccurate to say that the new Limitation Act does not apply to cases under the Rent Law. What the Act says is this: "When by any special or local law, now or hereafter in force in British India, a period of limitation is specially prescribed for any suit, appeal, or application, nothing herein contained shall affect or alter the period so prescribed,"--that is to say, the time within which the suit is to be brought remains unaffected by the Act of 1877. But nothing forbids the application of the other provisions, and specially of the provisions for computing the period of limitation contained in Part III of the new Act. The 6th section differs in this particular from the corresponding section of the old Act, which says--"nothing

herein contained shall affect such law."

3. The intention of the Legislature to give to the persons suing the benefit of the rules contained in the present Act for computing the period within which a suit is to be brought is thus manifest. This suit, therefore, being brought on the first day after the Court re-opened, was in time. The judgments of the Courts below, which dismissed the suit on the ground of limitation, are set aside, and the case is remanded to the Munsif's Court for trial on the other issues. The costs of this appeal will follow the result.