

APPELLATE CIVIL.

Before S. K. Ghose and Mitter J.J.

1937

April 21.

KSHIRODE CHANDRA DAS

v.

RAMANI MOHAN DHAR.*

*Limitation—Application, if required to be made in open Court—Dies non—
Indian Limitation Act (IX of 1908), s. 4.*

When an application is required under any rule of practice to be presented or moved in open Court, and the period of limitation expires on a day when the Court is not sitting, the application may be moved or presented on the day when the Court sits for the first time after such day.

K. P. Sinha v. Jatindra Nath Biswas (1) referred to.

REFERENCE by the Registrar on a question of limitation.

The facts of the case are sufficiently stated in the judgment.

Durgesh Prasad Das for the applicant.

The judgment of the Court was as follows:—

In this case the appeal was filed on the proper date, but subsequently there was an application filed for substitution of the heirs of one of the deceased appellants. The application was filed on April 5, 1937, which was the first date after the close of the Easter holidays on which the Registrar was sitting. The offices of the Court, however, re-opened on April 3, 1937. The question is whether the application should have been filed on April 3rd and whether as it was not so filed it was time-barred. Here there is no question of the filing of the appeal which might be done in the office. The question is with regard to the filing of an application which had to

*Application in Appeal from Appellate Decree, No. 880 of 1937.

be moved before the Registrar. As a matter of fact the Registrar sat for the first time after the re-opening of the Court on April 5, 1937. Therefore, in our opinion, limitation should run from that date. As the application was filed on April 5, 1937, it should be held to have been filed within time : *K. P. Sinha v. Jatindra Nath Biswas* (1).

A, A.

(1) (1936) 41 C. W. N. 492.

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