

2. When limitation expired on the day on which Court was closed and the suit under the Registration Act, Sec. 77 was filed the next day, *held* Sec. 5 of the Limitation Act cannot be made applicable to the Registration Act :—(1896) 20 Mad. 249.
3. Time occupied by a review petition against the order refusing to register a document was not excluded for purposes of limitation under Sec. 77 of the Registration Act and Sec. 14 of the Limitation Act was held inapplicable to the case :—(1903) 30 Cal. 532. *See also* (1889) 17 Cal. 263 ; (1891) 18 Cal. 368.
4. Time for obtaining copies of judgment for purposes of filing a suit to compel registration was not excluded as provided under the Limitation Act :—(1902) 24 All. 402.

(B) RENT RECOVERY ACT—

1. Suit to set aside distraint under Sec. 15 of the Rent Recovery Act was filed on the 31st day, the previous day being a Sunday. *Held* that the Limitation Act was not applicable to the case but that the suit was not barred under the well recognized general rule, *viz.*, “where parties are prevented from doing a thing in Court on a particular day, not by any act of their own, but by the act of the Court itself, they are entitled to do it at the first subsequent opportunity :”—(1898) 22 Mad. 179.
- (2) Time for obtaining copies not excused for purposes of the Rent Recovery Act (Sec. 18):— (1897) 20 Mad. 476.

(C) MADRAS FOREST ACT—

In (1887) 10 Mad. 210, Sec. 5 of the Limitation Act was held inapplicable for purposes of this Act.

(D) MADRAS BOUNDARIES ACT—

See (1888) 12 Mad. 1, where the same principle is recognized.

BOMBAY VIEW—

This principle was not recognized in (1884) 8 Bom. 529. But it was doubted in (1905) 30 Bom. 275 by Chandavarkar, J. sitting as a single judge.]

[95] APPELLATE CIVIL.

The 1st December, 1880.

PRESENT :

SIR CHARLES A. TURNER, KT., CHIEF JUSTICE, AND MR. JUSTICE KINDERSLEY.

Mujavar Ibrambibi.....(Plaintiff) Appellant.

versus

Mujavar Hussain Sheriff and another.....(Defendants) Respondents.*

Muhammadian religious endowment—Management of, by woman.

A woman is not competent to perform the duties of Mujavar of a durga which are not of a secular nature.

THIS was a suit brought by a Muhammadian lady to establish her right to share with her brothers, the defendants, in the produce of certain lands, and to recover Rupees 573 for arrears of mesne profits for 1877 and 1878. The lands had

* R. A. 34 of 1880 from the decree of J. Wallace, Acting District Judge of Ganjam, dated 28th January 1880.

been dedicated for the reading of the *Fatiha*, for the supply of water, lights, flowers, and other things requisite for the services to be performed at a so-called durga at *Ichapur*, and for the support of those by whom the services should be performed.

It was objected by the defendants that plaintiff, being a woman, was incompetent to perform the duties of *Mujavar* (manager) of the durga.

The District Judge held that the *status* of this endowment had been decided in *Hussain Bibi v. Hussain Sheriff* (4 M.H.C.R., 23), and that according to that decision a woman was not competent to perform the duties of the office of *Mujavar*.

Plaintiff appealed.

The Advocate-General (Hon. P. O'Sullivan) for the Appellant.

Mr. Spring Branson for the Respondents.

For the appellant it was contended that the duties to be performed were not of religious but of secular character; that plaintiff was legally competent to perform them; and that the evidence showed that she had participated in the profits.

Upon the evidence the Court (TURNER, C.J., and KINDERSLEY, J.) held that it was not proved that plaintiff had ever participated in the profits or performed the duties either in person or by proxy, [96] and as to the nature of the office the Judgment proceeded as follows:—

“It appears from the evidence that the office of *Mujavar* entails the discharge of duties of a spiritual character, such as reading the *Fatiha*, offering prayers and incense, &c., which could not conveniently be performed by a woman. There is no satisfactory evidence that the office has ever been held by a woman, except in one instance, and that was at a different place, and in that case it is admitted there were in the family in which the office was hereditary no male members by whom its functions could be discharged.

The question as to the competency of a female to hold the office was in reference to the same endowment considered and determined by this Court in the negative in *Hussain Bibi v. Hussain Sheriff* (4 M. H. C. R., 23), where a claim was advanced by the widow of a deceased *Mujavar* to be declared entitled to discharge in her turn the duties of the office and to obtain possession of a share of the endowed property. That decision notices the distinction which exists between a trusteeship for secular purposes, which can be held by a woman, and an office entailing religious duties, for which a woman is not eligible, and rests on the authority of *Macnaghten* (Muhammadan Law, 343, Note, and the cases cited in the appendix to that work. Tit. Endowment, 28-31).

We affirm the decree of the Court below and dismiss this appeal with costs.”

NOTES.

[MUHAMMADAN LAW—RELIGIOUS ENDOWMENT—MANAGEMENT BY FEMALES—

Females are excluded from management of religious offices whose duties are not of a secular nature but are purely spiritual requiring personal qualifications.

In (1885) 10 Bom. 119 the office of *Sajjadanashin* of a mausoleum was held not capable of being held by a female, but that it did not prevent male heirs claiming through females, from holding it, on the construction of the grant in the case.]