

1921

RAM SUKH  
v.  
MRS. L. E.  
O'NEAL.

may not lawfully require and claim as one of the reliefs in the suit, the execution of a formal document completing the transfer in his favour, so as to fulfil the requirements of the Registration law and of section 54 of the Transfer of Property Act (IV of 1882). This question, however, does not directly arise out of the reference made to us, which we think we have sufficiently answered. As this reference has been heard *ex parte* we do not make any order as to the costs of the hearing in this Court.

*Reference answered.*

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December, 3.

## APPELLATE CIVIL.

*Before Sir Grimwood Mears, Knight, Chief Justice, and Justice Sir Pramada Charan Banerji.*

DEBI RAI AND OTHERS (APPLICANTS) v. PRAHLAD DAS AND OTHERS  
(OPPOSITE PARTIES).\*

Act No. XXVI of 1920 (*Civil Procedure Code Amendment Act*) section 3 (i)  
—*Civil Procedure Code (Act V of 1908), order XLV, rule 7—Appeal to His Majesty in Council—Deposit of security—Limitation.*

*Held* that the provisions of Act No. XXVI of 1920 do not apply to an appeal from a decree passed before the coming into force of that Act.

THE facts of this case sufficiently appear from the order of the Court.

Maulvi Iqbal Ahmad, for the appellants.

Mr Nihal Chand, for the respondents.

MEARS, C. J., and BANERJI, J. :—Debi Rai and others, who are the appellants in this matter, had a decree passed against them on the 9th of December, 1920. On the 7th of June, 1921, they made an application that Rs. 4,000, then in existence in cash, might be received and war bonds or Government security notes might be purchased in the names of the petitioners. The order that was made on that application, which was, it is to be noticed, within six months from the date of the decree, was "lay before the Bench concerned." At the next sitting of the Bench concerned an application was made that this money might be received and the order was made. That order was made five days beyond the period of six months from the date of the decree. It should be

\*Application in Privy Council Appeal No. 8 of 1921.

stated that in the intervening period, namely, on the 22nd of April, 1921, the appellants obtained a certificate which fulfilled the requirements of the law. On the 21st day of November, 1921, the respondents lodged an objection to the admission of the appeal and prayed that the certificate of the 22nd of April, 1921, might be revoked. The ground on which they asked that this should be done is that the appellants were out of time on the 14th of June, 1921, when they made the payment into this Court. To obtain an order on this objection it is necessary for Mr. *Nihal Chand*, who appears on behalf of the respondents, to show that this case is governed by Act No. XXVI of 1920. Mr. *Iqbal Ahmad* has put a very short answer, which is this: he maintains that his decree being of the year 1920 one must look at the provisions of the Act of 1908 and order XLV, rule 7, as it was in its unamended state in the year 1920; and he claims that, by virtue of the decree having been made on the 9th of December, 1920, he is entitled as of right to six months from that date within which to make the deposit. He then points out that he attended here on the 7th of June, which admittedly is within six months, ready and willing to comply with the terms of the rule and that it was only by the circumstance that the proper Bench was not sitting on that date, or on the 8th or 9th of June, that he was unable to obtain an order from the Bench which would permit his depositing the money. We think that this application is governed by the Act of 1908. There is no need for Mr. *Iqbal Ahmad* to bring himself within any of the provisions of the Act of 1920, and indeed if he had come within that Act he would have been out of time. In these circumstances we are of opinion that the objection cannot prevail and that the application on the part of the respondents that the certificate may be revoked must be dismissed with costs.

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DAS.

*Application rejected.*