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much too sweeping. It depends on the circumstances in each case and on the nature of the invalidity of the remand order. If the remand order is finally set aside and is such an order as ought not to have been passed at all in any case, it may be that the proceedings in the court below fall with it. But in this case, and it must have happened in many other cases, the proceedings taken in the first court as a result of the remand order against which there is an appeal must be and ought to be held to be *de bene esse*. The subsequent event in this case resulted in the remand order being shown to have been quite right. It seems to me that it would be turning the law into absurdity, and would amount to a denial of justice if a proper trial which has taken place under a remand order made by the appellate court and in obedience to such remand order, were held to be invalid when as the result of the High Court's own decision that remand order turned out to have been perfectly justified.

Appeal dismissed.

*Before Sir Greenwood Mears, Knight, Chief Justice, and Justice
Sir Pram :da Charan Banerji.*

RAM DHAN AND OTHERS (APPLICANTS) v. PRAK NARAIN AND OTHERS
(OPPOSITE PARTIES).*

Civil Procedure Code (Act V of 1908), order XLV, rule 7—Act No. XXVI of 1920, section 3 (1)—Extension of time for furnishing security and making deposit—Power of High Court to grant extension limited to sixty days.

Held, on a construction of section 3 (1) of Act No. XXVI of 1920, that the Court has no power to extend the time for furnishing security and making a deposit for translation and printing by a longer period than sixty days.

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

Mr. *Nihal Chand*, for the applicants.

Mr. *B. E. O'Connor* and *Munshi Girdhari Lal Agarwala*, for the opposite parties.

MEARS, C. J., and BANERJI, J. :—This is an application by the appellants, who ask the Court to extend the time for furnishing security and making a deposit for translation and printing and other charges. The rule which prescribes the time within which an appellant should furnish security for the costs of the respondent and deposit the amount required to defray the expenses of

* Application No. 24 of 1921 under order XLV, rule 6, clause (a), as amended by Act XXVI of 1920.

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translation and printing and other charges was, until Act No. XXVI of 1920, in these terms:—"Where a certificate is granted the applicant shall within six months from the date of the decree complained of, or within six weeks from the date of the grant of the certificate, whichever is the later date, furnish security etc." By section 3 (1) of Act XXVI of 1920 the words "six months" have been cut down and in their place the following words are to be read "90 days or such further period not exceeding 60 days as the Court may, upon cause shown, allow." As the appellant in this case is appealing against a decree of the 2nd day of March, 1921, he having on the 30th day of July, 1921, obtained a certificate, he is admittedly on any reckoning outside and beyond both periods of 90 days from the date of the decree and six weeks from the date of the granting of the certificate. He is indeed also out of time as regards the longer possible period of 90 days plus 60 days. Therefore the dates we have given show that on the facts of this case the question before us is whether as the law now stands we have got power to extend the time beyond the periods which are mentioned in the amendment. It is conceded in argument that the object of the amendment of 1920 is to try to effect a speeding up in appeals which proceed from this country to the Privy Council, and we think that is a matter which must be borne in mind by us in construing this section as amended. Under the old section to be found in order XLV, rule 7, of the Code of Civil Procedure of 1908 the courts had decided that the periods mentioned in rule 1 were directory only, and that though they were normally the proper periods which should be observed by appellants, they could nevertheless be extended in the discretion of the Court if there were circumstances which the Court thought weighty enough to make it proper for the period to be extended. There is no doubt that it was the uniform practice to extend the time upon cause shown. The question before us is whether having regard to the very careful drafting of the amendment the discretion of the Court is not curtailed and limited, as regards the period from the date of the decree, to an extension of 60 days, beyond which under no circumstances the Court can go. We are of opinion that that is the real meaning and the intended

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effect of the section. It will be seen that the period of six weeks from the grant of the certificate has not got coupled with it any discretionary period. In practice an appellant secures not much less than 150 days from the decree appealed against under this provision. Our view is that we have no power to extend the period beyond those times which are now definitely and clearly set out in the amended order XLV, rule 7. To decide otherwise and grant extension beyond the period of six weeks would in our view defeat the object and intention of the amendment. The application is therefore rejected and the certificate revoked.

Application rejected.

FULL BENCH.

Before Mr. Justice Figgott, Mr. Justice Walsh and Mr. Justice Gokul Prasad.
SOHAN PAL, MUNNA LAL (PLAINTIFFS) v. THE EAST INDIAN RAILWAY COMPANY (DEFENDANT).*

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Act No. IX of 1890 (Indian Railways Act), sections 47, 54 and 72—Act No. IX of 1872 (Indian Contract Act), section 149—Liability of Railway Company for goods accepted by a servant of the Company for conveyance—Grant of receipt on behalf of the Company not essential to accrual of liability.

Where goods are tendered to the appropriate official of a Railway Company for despatch to a particular destination and are accepted by him, the liability of the Company in respect of such goods accrues from the time when the goods are so accepted, and is not dependant upon the granting or withholding of a receipt for the same on behalf of the Company by the official who has accepted the goods *Banna Mal v. The Secretary of State for India*, (1) distinguished and doubted.

THIS was an application in revision under the Provincial Small Cause Courts Act, 1887. The facts of the case are stated in the following orders of TUDBALL, J., before whom the case first came. They will also be found in the judgment of FIGGOTT, J.

TUDBALL, J.:—This application in revision arises out of a suit brought by the plaintiff to recover damages for goods which he had delivered to the East Indian Railway at the Agra city station for transmission to Amroha and which have been lost by the Railway Company. The court below has found

* Civil Revision No. 43 of 1920.

(1) (1901) I. L. R., 29 ALL., 367.