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MUHAMMAD
ASKARI
v.
RAHMAT-
ULLAH.

claim for pre-emption of the one-third share belonging to Rahmat-ullah in the Malik Hotel on payment of one-third of the true sale consideration, that is, Rs. 1,740, within six weeks from this date. In the case of payment within the time allowed the plaintiff will have his costs in both courts against Rahmat-ullah. In case of default his claim will stand dismissed against Rahmat-ullah with costs in both courts. The plaintiff's claim for pre-emption of the two-thirds share belonging to Muhammad Yusuf and Muhammad Yaquub stands dismissed with costs in both courts.

Appeal allowed.

REVISIONAL CIVIL.

Before Mr. Justice Mukerji.

ABDUL GHANI (DEFENDANT) v. CHIRANJI LAL
(PLAINTIFF).*

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Act No. IX of 1908 (Indian Limitation Act), sections 4 and 19—Limitation—Acknowledgement made after expiration of three years' period but before suit on promissory note was barred—"The period prescribed."

An acknowledgement of a debt made after the expiration of the three years' period prescribed by schedule 1 to the Indian Limitation Act, 1908, for a suit on a promissory note, but made before a suit on the note is actually barred by limitation, is a good acknowledgement. *Sheo Partab Singh v. Tajammul Husain* (1), followed. *Bai Hemkore v. Masamalli* (2), dissented from.

THE facts of this case, so far as they are necessary for the purposes of this report, appear from the judgment of the Court.

Dr. N. C. Vaish, for the applicant.

Pandit Uma Shankar Bajpai, for the opposite party.

* Civil Revision No. 200 of 1926.

(1) (1926) I.L.R., 49 All., 67. (2) (1902) I.L.R., 26 Bom., 782.

MUKERJI, J. :—The question of law raised by this application in revision is whether an acknowledgement of a debt made after the expiration of the three years' period prescribed by schedule 1 for a suit on a promissory note but made before a suit on the note was actually barred by limitation, was a good acknowledgement.

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It appears that the acknowledgement in this case was made while the right of institution of suit was still subsisting owing to holidays having come in. The limitation was to expire on the 17th of October, 1923, on the promissory note on which the suit was brought, but the suit could be instituted on the 23rd as the period between the 17th of October and the 22nd of October, 1923, was a holiday.

The court below has decided against the defendant, hence this application in revision.

The answer to the question must depend on the correct reading of section 19 and section 4 of the Limitation Act. Section 19 says :—

“ Where, before the expiration of the period prescribed for a suit or application in respect of any property or right, an acknowledgement of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by some person through whom he derives title or liability, a fresh period of limitation shall be computed from the time when the acknowledgement was so signed.”

The period prescribed for a suit is not necessarily the period prescribed by schedule 1 of the Limitation Act. “ The period prescribed ” would mean, in the ordinary sense of the words, the period prescribed by law, that is to say, the period prescribed by the entire body of the Limitation Act. The schedule 1 read with section 4 of the Limitation Act would mean that the period prescribed for a suit on this particular promissory note, which was executed on the 17th of

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October, 1920, was between the 17th of October, 1920, and the 23rd of October, 1923. In my opinion there is no reason to limit the sense of the expression "the period prescribed" to the period prescribed in the schedule alone. Where such idea is meant to be expressed, adequate words have been used for that purpose; for example, in section 3 of the Limitation Act we find the words "by the first schedule" added to the word "prescribed." In the case of *Sheo Partab Singh v. Tajammul Husain* (1) a Division Bench of this Court considered whether an acknowledgement made within the period prescribed by section 31 of the Indian Limitation Act was a good acknowledgement. Their Lordships held that it was. This is, in my opinion, with respect, good law. I do not agree with the view taken in *Bai Hemkore v. Masamalli* (2).

I hold that the acknowledgement was within time and did operate to extend the period of limitation.

The application fails and is hereby dismissed with costs.

Application dismissed.

MISCELLANEOUS CIVIL.

Before Mr. Justice Mukerji.

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IN RE THE UNION INDIAN SUGAR MILLS Co., LTD.
(IN LIQUIDATION) v. BRIJ LAL, JAGANNATH.*

Act No. VII of 1913 (*Indian Companies Act*)—*Liquidation—Claim against a company in liquidation based on a compromise decree—Circumstances in which a liquidator must accept the decree or is entitled to call for proof of the claim.*

Where a judgment has been obtained after a trial of issues by a court, where there has been a *bonâ fide* litigation, the trustee in bankruptcy or the official liquidator, in the case of an insolvent company, will not ordinarily go behind

* Miscellaneous Case No. 36 of 1926.

(1) (1926) 24 A.L.J.R., 1039

(2) (1902) I.L.R., 26 Bom., 782.