

they were the legal representatives of Prag Singh, entitled to redeem the plaintiff's mortgage and to receive a notice of his foreclosure proceedings. All that can be said is that the property in question in the plaintiff's proprietary possession may be subject to that lien. Its validity may be considered when an attempt to enforce it is made. The defendants-respondents purchased eight pies out of which six are claimed by the plaintiff as the subject of the deed executed in his favour on the 24th July, 1876. He does not claim nor does the Court of first instance presumably award to him more than six pies. It is unnecessary to remand the case to the lower appellate Court. Decreeing the appeal with costs, we reverse its decree and restore that of the Munsif of Bansi.

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RADHEY  
TEWARI  
v.  
BUJHA MISR

*Appeal allowed.*

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*Before Mr. Justice Pearson and Mr. Justice Oldfield.*

RUP KISHORE AND ANOTHER (PLAINTIFFS) v. MOHNI AND OTHERS  
(DEFENDANTS).\*

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*January 4.*

*Bond payable on demand—Limitation—Act IX of 1871 (Limitation Act)—Act XV of 1877 (Limitation Act), s. 2.*

Act XV of 1877, by making the period of limitation for a suit on a bond payable on demand computable from the date of its execution, has shortened the period of limitation prescribed for such a suit by Act IX of 1871 under which the period was computable from the date of demand. *Held*, therefore, that, under the provisions of s. 2 of Act XV of 1877, a suit on such a bond executed on the 14th December, 1869, having been brought within two years from the date that Act came into force, was within time.

THE plaintiffs in this suit claimed Rs. 590-6-9, being the principal amount and interest due on a registered bond, dated the 14th December, 1869, payable on demand, in which certain immovable property was hypothecated as collateral security. The plaintiffs claimed a decree directing the sale of the hypothecated property, and, in case that property was not sufficient to satisfy the judgment-debt, directing payment of the judgment-debt by the legal representatives of the deceased obligor and by the

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\*Second Appeal, No 714 of 1880, from a decree of Maulvi Sami-ul-lah Khan, Subordinate Judge of Moradabad, dated the 6th April, 1880, affirming a decree of Maulvi Anwar Hussain, Munsif of the Environs of Moradabad, dated the 30th September, 1879.

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surviving obligor, defendants, and the sale of the other property of the deceased obligor and of the surviving obligor. The suit was instituted on the 29th August, 1879. Both the lower Courts held that the claim of the plaintiffs could not be enforced against the defendants personally, as the suit in that respect was barred by limitation; the lower appellate Court disallowing the contention of the plaintiffs that, under the provisions of s. 2 of Act XV of 1877, they were entitled to bring the suit within two years from the date on which that Act came into force, viz., the 1st October, 1877.

On second appeal to the High Court the plaintiffs again raised the same contention as they had raised in the lower appellate Court.

Munshi *Sukh Ram* and Babu *Jogindro Nath Chaudhri*, for the appellants.

The respondents did not appear.

The judgment of the Court (PEARSON, J., and OLDFIELD, J.,) was delivered by

OLDFIELD, J.—The question before us is one of limitation. The bond on which the suit is brought was executed before Act XV of 1877 came into force. Under Act IX of 1871 the period of limitation prescribed would be three years running from the date of demand, but under art. 67, sch. ii of Act XV of 1877, it is three years from the date of executing the bond, and the suit for enforcement of the claim against the person and un-hypothecated property of the defendant will be beyond time. The plaintiff contends that under the provisions of s. 2 of the Act he can bring the suit within two years from 1st October, 1877, when the Act came into force. The contention is valid. The plaintiff is entitled to the benefit of s. 2 if it be shown that the period of limitation prescribed by Act XV of 1877 is shorter than that prescribed by Act IX of 1871, and this is the case; for although the period of three years is allowed by both Acts, by the old Act it was prescribed for a suit of this character to begin to run from the date of demand, whereas by Act XV of 1877 it will begin to run from the date of execution of the bond, and the period of limitation

prescribed for the suit has thus in effect been shortened. The words "period of limitation prescribed for a suit" in s. 2 do not refer only to the entries in column 2 of the schedules of the period of limitation, but to those entries taken in connection with the entries in column 3 of the time when the period begins to run, since the two together prescribe the period of limitation for a suit; no period of limitation can be ascertained and applied to a particular suit except by considering both entries. The same words "period of limitation prescribed for a suit" occur in s. 4, and the way they are used shows that they are to be understood in the above sense. That section provides that a suit "instituted after the period of limitation prescribed therefor by the second schedule" shall be dismissed, and obviously it is only by taking into consideration the period and the time when it begins to run that the period of limitation prescribed for the suit can be ascertained, so as to allow of a determination whether the suit has been instituted after the period of limitation prescribed. The obvious intention of the Legislature was to give relief in cases where the alteration of the law has in point of fact deprived a person of the full time for instituting a suit which the old law had allowed him. The appeal will be decreed with costs, and the plaintiff's claim be decreed in full against the person and property of the defendants.

*Appeal allowed.*

## CIVIL JURISDICTION.

*Before Sir Robert Stuart, Kt., Chief Justice, and Mr. Justice Straight.*

SARNAM TEWARI AND ANOTHER (DEFENDANTS) *v.* SAKINA BIBI (PLAINTIFF),\*

*Powers of Revision of the High Court under s. 622 of Act X of 1877 (Civil Procedure Code).*

*S* instituted a suit against *T* in the Court of an Assistant Collector of the first class, who dismissed the suit. On appeal by *S* the District Court gave her a decree. On second appeal by *T* the High Court held that, as the suit was one of the nature cognizable in a Court of Small Causes, a second appeal would not lie in the case, and dismissed it. *T* thereupon applied to the High Court to set

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\* Application, No. 813 of 1880, for revision under s. 622 of Act X of 1877 of the decrees of J. W. Power, Esq., Judge of Ghazipur, and of C. Rustomjee, Esq., Assistant Collector of the first class, dated the 10th December, 1879, and 30th September, 1879, respectively.

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*v.*  
MOHNI.

1881

*January 4.*