

## PRIVY COUNCIL.

Before Syed Wazir Hasan, Chief Judge and Mr. Justice Muhammad Raza.

1931  
November,  
26.

HUKUMCHAND KASLIWALI, SIR, AND ANOTHER (APPLICANTS) v. RADHA KISHEN MOTI LAL CHAMARIA, MESSRS., AND OTHERS (OPPOSITE PARTY).\*

*Civil Procedure Code (Act V of 1908), order XI, rule 7(1)—Privy Council Appeal—Chief Court's power to extend the time for giving security prescribed by order XI, rule 7(1).*

The Chief Court has no jurisdiction to extend the time for giving security prescribed by order XI, rule 7(1) of the Code of Civil Procedure. *Nilkanth Balwant Natu v. Shri Satchitanand Vidya Narsinha Bharati* (1) dissented from. *Ashiq Ali v. Arjuman-un-nisa* (2), *Ram Dhan v. Prag Narain* (3), *Kachi Reddi v. Saki Reddi* (4), *J. N. Surty v. T. S. Chettyar Firm* (5), and *Sri Kamala Kanta Singh v. Bindumukhi Dassi* (6), relied on.

Mr. S. C. Das, for the applicants.

Messrs. H. K. Ghose and K. P. Misra, for the opposite party.

HASAN, C. J. and RAZA, J.:—In these cases certificates for leave to appeal to His Majesty in Council from a decree of this Court were granted on the 15th of September, 1931. Both the periods of time prescribed by rule 7 of order XLV of the Code of Civil Procedure, 1908, have expired, but the security required by clause (2) of sub-rule (1) has not been furnished by the applicants. The applications before us have been made with a prayer that time be extended to furnish the required security. The question which has arisen for decision is as to whether the court has power to extend the time. In support of the applicants' contention reliance is placed on a Full Bench decision of the High Court at Bombay in *Nilkanth Balwant Natu v. Shri Satchitanand Vidya*

\*Privy Council Appeal No. 16 of 1931, for leave to appeal to His Majesty in Council.

(1) (1927) I.L.R., 51 Bom., 430.

(2) (1922) 25 O.C., 254.

(3) (1921) I.L.R., 44 All., 216.

(4) (1924) A.I.R., Madras, 44.

(5) (1926) A.I.R., Rang., 265.

(6) (1929) A.I.R., Patna., 431.

*Narsinha Bharati* (1). The decision in that case is contrary to the uniform practice of this Court. The point was expressly decided so far back as 1922 by the late court of the Judicial Commissioner of Oudh in *Ashiq Ali v. Arjuman-un-nisa* (2) and the interpretation placed on rule 7 in that case has been accepted as correct and acted upon by the Chief Court also. The latest decision of our Court was given in the case of *Tirbhawan Dutt v. Someshwar Dutt* (3). The appellant who failed to obtain an extension of time in the case just now mentioned afterwards made an application before their Lordships of the Judicial Committee for special leave to appeal. The leave was granted, but in granting the leave their Lordships of the Judicial Committee did not indicate that the interpretation which this Court had placed on the language of rule 7(1) of order XLV of the Code of Civil Procedure was incorrect. Indeed the whole of our order is quoted in the order in Council, dated the 23rd day of July, 1931.

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CHAMARIA,  
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Hasan. C.J.  
and  
Raza, J.

The view which we now take and have taken on previous occasion is supported by the decisions of High Courts at Allahabad—*Ram Dhan v. Prag Narain* (4); at Madras—*Kachi Reddi v. Saki Reddi* (5); at Rangoon—*J. N. Surty v. T. S. Chettyar Firm* (6), and at Patna—*Sri Kamala Kanta Singh v. Bindumukhi Dassi* (7). Except the Bombay case, to which reference has already been made, there is no reported case of any other High Court, so far as we are aware, in support of the interpretation sought to be placed by the applicants in these cases. Accordingly we hold that we have no jurisdiction to extend the time for giving security and dismiss these applications with costs. The certificates granted to these applicants will be refunded.

*Application dismissed.*

(1) (1927) I.L.R., 51 Bom., 430.

(2) (1922) 25 O.C., 254.

(3) (1931) P.C.A., No. 1 of 1931.

(4) (1921) I.L.R., 44 All., 216.

(5) (1924) A.I.R., Madras, 44.

(6) (1926) A.I.L., Rang., 265.

(7) (1929) A.I.R., Pat., 431.