LETTERS PATENT.

1939.

August, 4.

Before Harries, C.J. and Fazl Ali, J.

RAMJAN ALI

v.

KHAWJA MEER AHMED SETHI.*

Limitation Act, 1908 (*Act IX of* 1908), *section* 19—"*signed*", *meaning and significance of—name of debtor appearing in acknowledgment of liability—name introduced under authority of debtor—acknowledgment, effect of.*

Where upon a document, which purports to be an acknowledgment of liability, appears the name of the debtor, and this name is introduced under his authority with a view to authenticate the document, such a document is a valid acknowledgment of his liability within the meaning of section 19 of the Limitation Act, 1908. It is not necessary that the name should be written by the debtor himself. It is sufficient if it is written by a person with authority to write his name.

Mathura Das v. *Babu Lal*(1), followed.

Section 19, Limitation Act, 1908, does not draw a distinction between a person who is literate and one who is not literate. In either case an acknowledgment signed by an agent with his authority would be enough.

The section also does not say as to what should be the form of the signature. If the name of the debtor is introduced into the document of acknowledgment in such a way as to show that the acknowledgment was intended to be his own, such a name, whether written or printed, would constitute his signature within the meaning of the expression as used in section 19.

Appeal by the defendant no. 1.

The facts of the case material to this report are set out in the judgment of Fazl Ali, J.

K. K. Banarji, for the appellant.

Gholam Muhammad, for the respondent.

*Letters Patent Appeal no. 4 of 1939, from a decision of Mr. Justice Manohar Lall, dated the 6th December, 1938.

(1) (1878) I. L. R. 1 All. 683.

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FAZL ALI, J.—This is an appeal under the Letters Patent from a decision of Manohar Lall, J. in a second appeal affirming the decision of the Courts below in a suit based on a bond executed by defendant no. 1 in favour of defendant no. 2 on the 19th June, 1931. The bond having been duly assigned by the defendant no. 2 in favour of the plaintiff, the latter brought this suit on the 23rd of March, 1934, to recover the sum due under it.

The only question which arises in this second appeal is whether two letters, Exhibits 1 and 1(*a*), dated the 23rd of September, 1933, and 28th of January, 1934, respectively, constitute a valid acknowledgment of the liability of the defendant no. 1 so as to extend the period of limitation for the suit which would otherwise have been barred. Admittedly these letters were written not by defendant no. 1 but by one Rahmat Ali; but both the trial Court and the lower appellate Court found that Rahmat Ali wrote these letters at the instance of and on the instructions given by defendant no. 1, and defendant no. 1 had these letters duly posted to the address of the defendant no. 2. Both the Courts held upon these facts that these letters constituted a valid acknowledgment of liability so as to bring the case under section 19 of the Limitation Act, and this view has been upheld by the learned Judge of this Court on second appeal.

The learned Advocate for the appellant contends that these letters do not constitute a valid acknowledgment, first, because they were not signed by the defendant no. 1 himself although there is evidence to prove that he could make his own signature; and, secondly, because Rahmat Ali was not duly authorized to acknowledge the debt due under the bond. It is true that the letters have not been signed by the defendant no. 1; but the question as to what constitutes a signature under section 19 of the Limitation

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Act has been considered in a series of cases by the Indian High Courts, and there is a consensus of opinion that if upon a document which purports to be an acknowledgment of liability there appears the name of the debtor, and this name is introduced under his authority with a view to authenticate the document, such a document would be a valid acknowledgment of his liability. This view is very lucidly set out in the judgment delivered by the learned Chief Justice of the Allahabad High Court in *Mathura Das* v. *Babu Lal*(1), and it has been reiterated in a number of subsequent decisions. The learned Chief Justice in the case referred to above observed as follows:—

"The Act does not require that the signature should be at the foot or in any particular part of the document, and in our judgment, whenever the maker of an instrument or his agent acting with authority introduces the name of the maker with a view to authenticate the instrument as the instrument of the maker, such an introduction of the name is a sufficient signature".

Thus it is not necessary that the name should be written by the debtor himself. It is sufficient if it is written by a person acting with authority to write his name and to acknowledge the debt in question. *Explanation II* to section 19 of the Limitation Act clearly states that for the purposes of the section "signed" means signed either personally or by an agent duly authorized in this behalf. It is contended that defendant no. 1 being literate could have signed the letters himself; but the section, as it stands, does not draw any distinction between a person who is literate and one who is not literate. In either case an acknowledgment signed by an agent with his authority would be enough. The section also does not say as to what should be the form of the signature, and it is now well settled that if the name of the

(1) (1878) I. L. R. 1 All. 688.

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debtor is introduced into the document of acknowledgment in such a way as to show that the acknowledgment was intended to be his own, such a name, whether written or printed, would constitute his signature within the meaning of the expression as used in section 19 of the Limitation Act. This view is also in consonance with the view taken in a number of English decisions. The effect of these decisions is stated thus in Addison on Contracts, 11th Edition, page 41 :—

"If the party has recognized and adopted his printed name or signature—for instance, by sanctioning or permitting the distribution of printed handbills, or printed particulars of sale, in which his name appears—there has been a signature by an agent duly authorised, upon the principle that the subsequent sanction or adoption of the printed name or signature is equivalent to an antecedent authority to the printer to print it".

The second objection which has been put forward on behalf of the appellant is equally untenable. As I have already stated, it has been found by the Courts below that the letter was written by Rahmat Ali at the instance of defendant no. 1 and upon his instructions. It has also been found that it was defendant no. 1 who caused the letter to be posted to the address of defendant no. 2. These circumstances clearly indicate that Rahmat Ali had been duly authorized to make the acknowledgments in question.

In my opinion, the view taken by Manohar Lall, J. is perfectly correct, and I would, therefore, dismiss this appeal with costs.

HARRIES, C.J.—I agree.

K. D.

Appeal dismissed.