

agreed to adjust them in the current account and that, in this way, they merged in that account and were discharged. He has failed in that part of his case. It was also never the case of defendant No. 1 that these *hundis* were conditional payments towards the overdrawn current accounts. This contention of respondents' counsel must therefore fail.

I would accept the appeal, and decree the suit in full with costs throughout and future interest at 6 per cent. per annum from date of suit till date of realization against both defendants.

AGHA HAIDER J.—I concur.

N. F. E.

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 CHAWLA.  
 ———  
 ADDISON J.

AGHA HAIDAR  
 J.

*Appeal accepted.*

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**APPELLATE CIVIL.**

*Before Sir Shadi Lal, Chief Justice and Mr. Justice Jai Lal.*

**MAZULLA KHAN AND ANOTHER (PLAINTIFFS)**

**Appellants.**

*versus*

**GHAZI KHAN AND OTHERS (DEFENDANTS)**

**Respondents**

**Civil Appeal No. 774 of 1923.**

*Punjab Limitation (Custom) Act, I of 1920, sections 5 and 6—whether plaintiffs who were minors can claim 3 years after attaining majority or must sue within one year after commencement of the Act—Applicability of sections 6 and 8 of the Indian Limitation Act, IX of 1908—Statute—construction of.*

\* The sale in 1904 of certain ancestral land held under Customary Law was contested by the vendor's sons in a suit instituted in 1924. The plaintiffs were infants at the time when the cause of action accrued to them and they sued within 3 years after attaining majority. They relied upon the provisions of sections 6 and 8 of the Indian Limitation Act, and of Section 5 of the Punjab Limitation (Custom) Act, I of

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1920. For the defence it was argued that the words "Notwithstanding anything herein contained" in section 6 of the latter Act practically repealed section 5 in so far as the applicability of sections 4 to 25 of the Indian Limitation Act to suits governed by section 6 is concerned.

*Held*, that it is a cardinal doctrine of the construction of Statutes that an interpretation which would reduce the Statute to an absurdity should be avoided.

*Held further*, therefore, that the provisions of section 6 of the Punjab Act, I of 1920, were intended to govern the period of limitation prescribed by the Act, and its object was to prescribe a maximum period of one year after the commencement of the Act for a suit for which the period of limitation had commenced to run before the enforcement of the Act.

*And* that consequently the suit of the plaintiffs was within time as claimed by them.

*Muhammad Ghaus v. Muhammad Ali*, Civil Appeal No. 1291 of 1924 (unpublished), followed.

*Second appeal from the decree of Mian Ahsan-ul-Haq, District Judge, Mianwali, dated the 13th January 1923, affirming that of Mehta Dwarika Nath, Senior Subordinate Judge, Mianwali, dated the 14th November 1922, dismissing the claim.*

RAM CHAND, MANCHANDA, for Appellants.

NIAZ MUHAMMAD, for Respondents.

The judgment of the Court was delivered by—  
SIR SHADI LAL C. J.—The facts relevant to the question of law involved in this appeal may be shortly stated:—One Ghazi Khan, a Pathan of the village Yaru Khel in the Mianwali District, sold, by an instrument registered on the 1st of November, 1904, a plot of ancestral land to Khan Beg and Ahmad Khan for a sum of Rs. 1,000. On the 19th of April, 1922, the vendor's sons Mazullah Khan and Yakub Khan brought the present action for the usual declaration that the alienation should not affect their rights of succession after the death of their father.

The learned District Judge, concurring with the trial Judge, has dismissed the suit on the ground that it was barred by limitation.

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The plaintiffs alleged in their plaint that they were born in 1902, and 1903, respectively, and, if this allegation is found to be correct, both of them were minors at the time when the cause of action accrued to them to impeach the sale. The action was brought by them within three years immediately after attaining majority, and there can be no doubt that if sections 6 and 8 of the Indian Limitation Act (IX of 1908) apply, the suit would be within time.

It is common ground that the Statute, which was in force at the time of the sale, was the Punjab Limitation (Ancestral Land Alienation) Act (I of 1900) and that it provided a period of twelve years for a suit of this character. It is clear that the period prescribed by that Statute was subject to the general provisions contained in sections 4 to 25 (inclusive) of the Indian Limitation Act of 1908; and, as both the plaintiffs were minors on the date, from which the period of limitation was to be reckoned, they could invoke sections 6 and 8 of the Indian Limitation Act, and institute their suit within three years of the date of the cessation of the disability.

If the matter rested here, there would be no difficulty in holding that the law of limitation did not operate as a bar to the claim; but in 1920 another Statute, the Punjab Limitation (Custom) Act, came into force; and this Statute repealed the Punjab Limitation Act of 1900 and prescribed a shorter period of Limitation for suits relating to alienations of ancestral immoveable property and to appointments of heirs made by persons governed by custom in the Punjab. Now, the 5th section of the Act of

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1920 provides that "Subject to the provisions contained in section 4 to 25 (inclusive) of the Indian Limitation Act, 1908, and notwithstanding anything to the contrary contained in the First Schedule of the said Act, every suit of any description specified in the schedule annexed to this Act, instituted after the period of limitation prescribed therefor in the schedule, shall be dismissed, although limitation has not been set up as a defence."

The learned Counsel for the respondents admits that by virtue of this section, the period of limitation enacted by the Statute is subject to the general rules embodied in sections 4 to 25 of the Indian Limitation Act, but he contends that the concession allowed by the section has been taken away by section 6 which applies to suits brought after the date of the enforcement of the Act to impeach transactions effected before that date. Section 6, which has been invoked by the defendants, is in the following terms:—

"Notwithstanding anything herein contained, any suit for which the period of limitation prescribed by this Act is shorter than the period of limitation prescribed by the Indian Limitation Act, 1908, or by the Punjab Limitation (Ancestral Land Alienation) Act, 1900, may be instituted within the period of one year next after the commencement of this Act or within the period prescribed for such suit by the Indian Limitation Act, 1908, or by the Punjab Limitation (Ancestral Land Alienation) Act, 1900, whichever period expires first."

It is argued that the words "notwithstanding anything herein contained" practically repeal section 5 in so far as the applicability of the provisions of sections 4 to 25 to suits governed by section 6 is

concerned. In other words, the general principles embodied in sections 4 to 25 of the Indian Limitation Act, while applying to suits in which the cause of action arises after the date of the enactment of the Statute, do not govern any suit based upon a cause of action which had accrued before that date. This argument, if accepted, would bar the suit of a minor even if it is brought during the period of his minority. Now it is a cardinal doctrine of the construction of statutes that an interpretation, which would reduce the statute to an absurdity, should always be avoided. The words quoted above were, in our opinion, intended to govern the *period* of limitation prescribed by the Act, and the object of the section was to prescribe a maximum period of one year after the commencement of the Act for a suit for which the period of limitation had commenced to run before the enforcement of the Act. It is to be observed that the view taken by us coincides with that adopted by a D. B. in *Muhammad Ghaus v. Muhammad Ali*, C. A. No. 1291 of 1924.

Upon the assumption that the plaintiffs were born on the dates mentioned in their plaint, we are of opinion that the action brought by them was within limitation. We accordingly accept the appeal and, setting aside the decrees of the Courts below, remit the case to the Court of first instance for decision in accordance with law. The Court fees on the memorandum of appeal to this Court as well as on that to the Court of the District Judge shall be refunded, and other costs shall abide the event.

N. F. E.

*Appeal accepted.*

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