

house and the 3 *kanals* and  $3\frac{1}{2}$  *marlas* of non-ancestral land specified in the judgment of the learned District Judge. Both these properties will remain with the daughter, the gift with regard to them being valid. We leave the parties to bear their own costs throughout.

A. N. C.

*Appeal accepted in part.*

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DHANNA SINGH  
v.  
MST. NAMI.

**APPELLATE CIVIL.**

*Before Mr. Justice Zafar Ali and Mr. Justice Addison.*

JAI DEV SINGH, ETC. (PLAINTIFFS)

Appellants

*versus*

ABDUL RAHMAN AND OTHERS (DEFENDANTS)

Respondents.

Civil Appeal No. 2376 of 1927.

*Repealing (Punjab Loans Limitation) Act, III of 1923, section 5—Limitation of suits—extension of—where period expires on a Court holiday—Punjab General Clauses Act, I of 1898, section 8.*

*Held*, that as the last day of the two years of grace allowed for the institution of certain suits under section 5 of the Repealing (Punjab Loans Limitation) Act of 1923, fell upon a Sunday, a suit referred to therein instituted on the following day (15th June 1925) was within time; *vide* Punjab General Clauses Act, 1898, section 8.

*Sherdas Daulatram v. Narayan* (1), *Hira Singh v. Mst. Amarti* (2), *Murugesu Mudali v. Ramaswami Chettiar* (3) and *Dhanusingh v. Keshoprashad* (4), referred to.

*First appeal from the decree of Sheikh Ali Muhammad, Senior Subordinate Judge, Rawalpindi, dated the 31st January 1927, dismissing the suit.*

GOBIND DAS BHAGAT and GOBIND RAM KHANNA,  
for Appellants.

MOHSIN SHAH and S. M. HAQ, for Respondents.

(1) (1911) I. L. R. 36 Bom. 268.

(3) (1913) 21 I. C. 770.

(2) (1912) I. L. R. 34 All. 375.

(4) (1923) 72 I. C. 388.

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Nov. 13.

The judgment of the Court was delivered by :—

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 JAI DEV SINGH  
 v.  
 ABDUL RAHMAN.

ADDISON J.—This suit was instituted on the 15th June, 1925, for money due on a pronote, dated the 19th April, 1919, payable on demand. It was claimed that it was within limitation as Rs. 159-0-6 were paid on account of interest on the 26th August 1919. Payment of interest was denied by the defendants who also raised other pleas. Issues on the whole case were struck and evidence recorded. The trial Judge dismissed the suit as barred by limitation on the ground that it should have been instituted at the latest on the 14th June 1925, though that day was a Sunday, as it was the last day of the two years of grace allowed by the Repealing (Punjab Loans Limitation) Act, III of 1923. The plaintiffs have appealed.

The Subordinate Judge, 1st class, came to no decision as to whether the alleged payment of interest had been proved and, in fact, does not mention this point in his judgment, though it had to be decided before the question decided by him even arose. By the Punjab Loans Limitation Act, 1904, the period of three years, allowed by Article 73 of the first Schedule of the Indian Limitation Act for a suit like the present, was extended to six years. The Punjab Act of 1904 was repealed by the Repealing (Punjab Loans Limitation) Act, III of 1923, but it was enacted by section 5 of that Act that suits instituted within two years of the date of the passing of the Act (*i.e.*, the 15th June 1923) which would not have been barred by limitation if the Punjab Loans Limitation Act, 1904 had been in force, shall not be held to be barred by limitation by reason of this Act only. The present suit became barred by limitation after the 19th April, 1925, unless the alleged payment of interest was proved, and section 5 of the Punjab Act, III of 1923, did

not extend the time beyond the 19th April 1925, except on proof of the alleged payment of interest. The discussion by the lower Court as to when the period of two years, provided in section 5 of Punjab Act, III of 1923, expired, did not arise till it had been decided whether there was a payment on account of interest on the 26th August 1919. If this payment of interest is not established, the suit is clearly barred by time. If it is established then the question discussed by the trial Court will arise for, in that case, the six years' period of limitation allowed by the Punjab Act of 1904 would expire on the 26th August, 1925, that is, after the period of two years specially allowed by section 5 of the Punjab Act, III of 1923.

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The question, whether the present suit was instituted within time, applying section 5 of Act III of 1923, and assuming that the alleged payment of interest is established, was argued before us at great length, and we think it expedient for that reason to decide this question. The suit would certainly have been within the two years of grace had it been instituted on the 14th June 1925 instead of the 15th June 1925. The 14th June, however, was a Sunday. On the analogy of *Shevdas Daulatram v. Narayan* (1) the trial Judge held that it did not matter that the 14th June was a Sunday, and that the plaintiffs were not entitled to institute the suit on the Monday. The Bombay decision referred to was not followed by the Allahabad High Court, see *Hira Singh v. Mst. Amarti* (2)—by the Madras High Court, see *Muruqesa Mudali v. Ramaswami Chettiar* (3)—or by the Court of the Judicial Commissioners of Nagpur, see *Dhanu-singh v. Keshoparshad* (4). It appears to us that it

(1) (1911) I. L. R. 36 Bom. 268.

(3) (1913) 21 I. C. 770.

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is unnecessary to discuss these cases as the point is concluded by section 8 of the Punjab General Clauses Act, I of 1898. It enacts that where, by any Punjab Act, any act or proceeding is directed or allowed to be done or taken in any Court on a certain day or within a prescribed period, then, if the Court is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time, if it is done or taken on the next day afterwards on which the Court is open, provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877, applied. Act III of 1923 is a Punjab Act and, by section 5 thereof, the present suit could be instituted, subject to proof of the alleged payment of interest, within two years of the 15th June 1923. Under section 8 of the Punjab General Clauses Act, therefore, it follows that, as the last day, namely, the 14th June, 1925, was a Sunday, the suit could be instituted, if payment of interest as alleged is proved, on the next day and this was done.

It is, therefore, necessary to accept the appeal, set aside the decree of the trial Court, and remand the suit for redecision in accordance with law and what has been said above. To save a further remand, we direct that all the issues should be decided, especially as parties have led all their evidence. The Court-fee on appeal will be refunded. Other costs will abide the event.

N. F. E.

*Appeal accepted.*

*Case remanded.*