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 BHOPENDRO  
 NARAIN  
 DUTT  
 v.  
 BARODA  
 PRASAD  
 ROY  
 CHOWDHRY.

The Judge will submit to this Court his finding on the issues above indicated, together with the evidence recorded on those issues, within a month from the date of the receipt by him of the record, and will, at the same time, return the record.

The case will remain on the file of this Court.

*Case remanded.*

H. T. H.

*Before Mr. Justice Trevelyan and Mr. Justice Banerjee.*

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DIN DOYAL SINGH (ONE OF THE DEFENDANTS) v. GOPAL SARUN  
 NARAIN SINGH, MINOR, THROUGH HIS NEXT FRIEND, MR. A.  
 OGILVY, MANAGER UNDER THE COURT OF WARDS  
 (PLAINTIFF).\*

*Limitation Act, 1877, art. 116—Registered Instalment Bond, Suit on—  
 Contract in writing registered.*

Article 116 of the Limitation Act is applicable to a suit on a registered instalment bond, notwithstanding the express provisions of Article 74. That article (116) is intended to apply to all contracts in writing registered, whether there is or is not an express provision in the Limitation Act for similar contracts not registered.

THIS was a suit to recover Rs. 3,965 for principal and interest due on a registered instalment bond, dated 15th Bysack 1283, Fasli (23rd April 1876), by which it was stipulated that, on failure to pay any instalment, the whole amount was to become due. Default was made in payment of the instalment due on 1st Magh 1289 (5th January 1882), and the cause of action was stated in the plaint to have arisen on that date. The suit was instituted on the 18th May 1888 (22nd Bysack 1295).

The only defence material to this report was that the suit was barred by limitation, and an issue raised as to this was decided by both the lower courts in favour of the plaintiff. The defendant appealed to the High Court, and the only question material was whether the period of three years under section 74 of the Limitation Act, or the period of six years under article 116, applied to the suit.

\* Appeal from Appellate Decree No. 654 of 1890 against the decree of J. Crawford, Esq., Judge of Gya, dated the 5th of February 1890, modifying the decree of Baboo Abinash Chunder Mitter, Subordinate Judge of Gya, dated the 2nd of April 1889.

Baboo *Saligram Singh* for the appellant.

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Baboo *Hem Chunder Banerjee* and Baboo *Ram Churn Mitter* for the respondent.

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SINGH.

The judgment of the Court (TREVELYAN and BANERJEE, JJ.) was as follows:—

The question before us is whether the term of limitation for a suit upon a registered instalment bond is six years or three years.

The decision of that question would depend upon the determination of the question whether article 116, Schedule II of the Limitation Act, governs an instalment bond. It is argued that it does not, because article 74 in express terms makes provision for an instalment bond.

We think that article 116 is intended to apply to all contracts in writing registered, whether there is or is not an express provision in the Limitation Act for similar contracts not registered, and this view seems confirmed by the distinction between the terms of this article and of article 115, in which the words “not herein specially provided for” occur. In this view we think that the provisions of article 116 govern this case, and that this appeal must, therefore, be dismissed with costs.

*Appeal dismissed.*

J. V. W.

*Before Mr. Justice Trevelyan and Mr. Justice Banerjee.*

SURESH CHUNDER BANERJEE, MINOR, BY HIS GUARDIAN AND EXECUTOR NOGENDRA CHUNDER BANERJEE AND ANOTHER (DEFENDANTS Nos. 2 AND 3) v. AMBICA CHURN MOOKERJEE AND OTHERS (PLAINTIFFS).\*

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*Appellate Court, Power of—Power to refer to arbitration a case on appeal—Civil Procedure Code, 1882, s. 582.*

Under s. 582 of the Civil Procedure Code, an Appellate Court has power to refer a case before it to arbitration, if the parties wish it to be referred.

\* Appeal from Appellate decree No. 656 of 1890 against the decree of F. F. Handley, Esq., Judge of Nuddea, dated the 28th of February 1890, reversing the decree of Baboo Bepin Chunder Roy, Munsiff of Ranaghat, dated the 30th of April 1889.