

Before Mr. Justice Markby.

1876
Dec. 15.

IN THE MATTER OF THE PETITION OF LALLA GOPEE CHAND AND
OTHERS.*

Privy Council Appeals Act (VI of 1874), ss. 8 and 11, cl. b—Limitation Act (IX of 1871), s. 5—Practice—Closing of the Court—Deposit of money under cl. 6, s. 11, Act VI of 1874—Power of the Court to grant special permission.

The petitioners had obtained a certificate on the 1st of September to appeal to Her Majesty in Council from a decision passed against them by the High Court on the 4th of May. Accordingly the period during which they were required to deposit the amount for the translation of the record, under s. 11, cl. b, of Act VI of 1874, expired on the 4th of November. The offices of the Court re-opened after the vacation on the 23rd October, but the Benches did not begin to sit till the 16th November. On the last mentioned date, the petitioner brought in the money, and it was refused by the officer of the Court as being too late. *Held*, that it was rightly refused, and that the Court had no power to grant permission to deposit it after the prescribed time (1).

Application for special permission to deposit in Court the amount required from the petitioners under cl. b, s. 11, Act VI of 1874.

The petitioners had, on the 1st of September, 1876, obtained a certificate under s. 9 of the Act to appeal to Her Majesty in Council from a decision of the High Court passed against them on the 4th of May. Under s. 11 of the Act they were bound to deposit the amount required to defray the expense of translating, transcribing, indexing, and transmitting to Her Majesty in Council, a correct copy of the whole record of the suit within six months from the date of the decree complained of, or within six weeks from ~~the grant~~ of the certificate, "whichever is the later date." The six months from the date of the decree expired on the 4th of November; and the six weeks, on the 13th of October. The last day, therefore, for making the deposit was the 4th of November.

* Privy Council Appeal, No. 28 of 1876, in Regular Appeal No. 103 of 1875.

(1) See 23 W. R., 220.

The estimate upon which the deposit was to be made was ready on the 18th of September. The offices of the Court were closed from the 21st of September until the 23rd of October, both days inclusive. The money, however, was not brought to the officer until the 16th of November, and he then declined to receive it. The petitioners claimed the benefit of s. 8 of Act VI of 1874, and prayed for special permission to make the required deposit.

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Baboo *Mohesh Chunder Chowdry* appeared in support of the petition.

Baboo *Chunder Madhub Ghose* appeared to oppose it.

MARKBY, J.—(after stating the circumstances connected with the application, continued):—In my opinion the officer was right in declining to receive the deposit. The applicant claims the benefit of s. 8 of Act VI of 1874 and s. 5 of Act IX of 1871, the 16th of November being the day on which the Court re-opened in the sense that that was the day upon which the Benches sat as usual for the first time. But those sections only apply to suits, appeals, and applications. No application was necessary in this case; the money is merely brought to the officer of the Court, who receives it making the usual entries, and this could have been done on any day after the 23rd of October.

I have enquired as to the practice, and I find that it has always been usual, when the last day falls during the period when the offices are closed, for the money to be brought in before the holidays commence.

I am also asked to give permission that the money be deposited now. I do not think I have power to do that.

Application refused.