

APPELLATE CIVIL

Before Falshaw, J.

JODH SINGH AND ANOTHER,—Appellants.

v.

SHRI HUKAM CHAND TALWAR,—Respondent.

F.A.O. 8-D of 1954

1956

Feb., 1st

Displaced Persons (Institution of Suits) Act (XLVII of 1948)—Section 8, as amended by Act (LXVIII of 1950), and Displaced Persons (Debts Adjustment) Act (LXX of 1951)—Section 13—Claim by one displaced person against another displaced person, barred by time—Whether limitation saved by Displaced Persons (Institution of Suits and Legal Proceedings) Amendment Act (LXVIII of 1950) or by Displaced Persons (Debts Adjustment) Act (LXX of 1951).

Held, that Act LXVIII of 1950, merely further extended limitation in cases where limitation was already extended by section 8 of the 1948 Act. It is thus clear that while limitation was extended in the case of claim by displaced persons against non-displaced debtors covered by section 13 of Act LXX, time was not extended for claims by displaced persons against displaced persons.

Lahori Mal Puri v. Pioneer Medical Stores Kanpur (1), referred to

First Appeal from the order of Shri G. K. Bhatnagar, P.C.S., Tribunal, Delhi, dated the 30th November, 1953, dismissing the application with costs.

AMAR SINGH CHAWLA, for Appellants.

H. L. SABARWAL, for Respondents.

JUDGMENT

Falshaw, J. This is an appeal against the dismissal by a Tribunal under Act LXX of 1951 an application under section 10 of the Act.

Both parties are displaced persons from Rawalpindi and the dispute arose out of an agreement to sell certain immovable property entered into in January, 1947, the contract falling through on the 12th April, 1947. The bulk of the Rs. 11,800 claimed by the petitioners, Jodh Singh and Sohan Singh, in their application consists of a claim for the recovery of Rs. 10,000 which they paid as earnest money in the sale contract. The application was filed before the Tribunal on the 30th September, 1952.

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The application has been dismissed on the preliminary issue that the claim was barred by time. The cause of action apparently arose on the 12th of April, 1947, and so the 12th of April, 1950, was in the ordinary course the last day of limitation, and it was found by the lower court that limitation was not saved by the Displaced Persons (Institution of Suits and Legal Proceedings) Amendment Act, 1950, which only came into force on the 9th of December, 1950, after the present claim had already become barred by time. It was also found that limitation was not saved by any provision of Act LXX of 1951.

On behalf of the appellants reliance was placed on the decision of my Lord the Chief Justice in *Lahori Mal Puri v. Pioneer Medical Stores, Kanpur* (1), in which it was held that the combined effect of section 8 of the Displaced Persons (Institution of Suits) Act XLVII of 1948, as amended by Act LXVIII of 1950, and the Displaced Persons (Debts Adjustment) Act LXX of 1951, is that limitation for displaced persons who apply under section 13 of Act LXX extends up to the 10th of December, 1952.

It is, however, to be noticed that section 13 of the Act deals with claims by displaced persons against

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debtors who are not displaced persons, whereas section 10 deals with claims to which both the parties are displaced persons. Section 36 of Act LXX allows the institution within one year from the commencement of the Act of any suit or other legal proceeding in respect whereof the period of limitation was extended by section 8 of the Displaced Persons (Institution of Suits) Act XLVII of 1948. Section 8 of that Act allowed the admission after the period of limitation prescribed therefor of any suit instituted in pursuance of section 4 of that Act when the plaintiff satisfied the Court that he was unable to institute the suit within the period of limitation owing to causes connected with his being a displaced person. It is therefore necessary to see what kind of suits could be instituted under section 4, which permitted displaced persons to institute suits in a Court within the local limits of whose jurisdiction they were living or any of the defendants were living if certain conditions were satisfied. The first of these conditions reads:—

“If the defendant, or where there are more than one, each of the defendants, actually and voluntarily resides or carries on business or personally works for gain in India and is not a displaced person.”

Act LXVIII of 1950, merely further extended limitation in cases where limitation was already extended by section 8 of the 1948 Act. It is thus clear that while limitation was extended in the case of claims by displaced persons against non-displaced debtors covered by section 13 of Act LXX, as was held by my Lord the Chief Justice, time was not extended for claims by displaced persons against displaced persons. I accordingly hold that the application was rightly dismissed by the Tribunal and dismiss the appeal, but leave the parties to bear their own costs.