

Mrs. Alice Georgina Skinner Vs. Kunwar Mukarram Ali Khan

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Court : Allahabad

Decided On : May-28-1924

Reported in : 92Ind.Cas.330

Judge : Cecil Henry Walsh, Acting C.J. and ;Ryves, J.

Appellant : Mrs. Alice Georgina Skinner

Respondent : Kunwar Mukarram Ali Khan

Judgement :

1. In our opinion this appeal must succeed, The learned Judge says this ingorance of the law is no excuse. It 'is a dangerous proposition. We think that almost any excuse for ignorance rhight be accepted under these circumstances if it were necessary for us to consider whether we ought to extend the time. But we are, of opinion that no extention of time, or concession of any kind, is required by the appellant. The difficulty has been to ascertain what the law is. It now turns out, that the appellant was right and the Judge was wrong. The Punjab High Court, of. Gobind Das v. Rup. Kishore 77 Ind. Cas. 409 : 4 L. 367 : 6 L.L.J. 25 : (1924) A.I.R. (L) 65 after an exhaustive enquiry have ascertained that when the Act of 1920 was enacted by the Government of India, the' period provided in the appropriate column opposite Article 177 was 'six months' No slovenly use of the word 'ditto' a word which ought to have no place in any Statute at all, has anything to do with the matter. The period was six months.

2. The Amending Act, XXVI of 1920, did not touch Article 177. Therefore, after the Amending, Act was passed; the period in the column, according to law, opposite Article 177, was still six months and that was actually the period provided when the appellant put in her application on the 28th June. That application was well within six months and was, therefore, in accordance with the existing law. Subsequently in 1923, by Act XI of 1923, the period has been altered to ninety days, but that was subsequent to this application. The appellant was, therefore perfectly within her rights.

3. The appeal succeeds and the matter must be sent back to the lower Court with direction to re-hear the application according to law.

4. The appellant is entitled to her costs here and below. The costs in this Court will include fees on the higher scale.