identify the latter three weeks or so after the occurrence. I do not, however, find any difficulty in believing both that a lamp was burning outside as well as in the room of the house and that the dacoits also used torches. It was suggested that the witnesses who had run out of the house when the dacoits first came would not have dared even to look back at them, but it is clear from the evidence that the dacoits became so intent on hunting for valuable loot that even their main victims, Siri Chand and his wife Shrimati Shanti, were actually able to escape from the house some time before the dacoits left and, therefore, it is quite feasible to support that witnesses from outside were keeping the dacoits under observation from time to time. On the whole I am not prepared to reject the evidence of identification against these three accused and there is further corroboration in the case of Narain Singh in the form of the recovery of ornaments.

The result is that I dismiss the appeals of Joginder Singh, Hukam Singh, Ram Singh and Narain Singh and accept the appeal of Labh Singh to the extent of changing his conviction from section 395 to 412, Indian Penal Code, and reduce his sentence to three years' rigorous imprisonment. I accept the appeal of Roshan, Jage and Gurcharan Singh and acquit them.

REVISIONAL CIVIL

Before Falshaw, J.

RAM SARUP,—*Petitioner.*

versus

SHRI NATHU RAM,—*Respondent.*

Civil Revision Case No. 155-D of 1954

1955

November, 1st

Delhi and Ajmer Rent Control Act (XXXVIII of 1952) —Section 11—Before 1952 Act came into force applications for fixation of the standard rent heard by Judge,

Small Causes Court, if value not more than Rs. 2,000—After the 1952 Act his jurisdiction to hear such or other applications completely taken away—Application filed in his Court after the relevant date, returned for presentation to proper Court—Such application promptly filed in proper Court after the period of limitation prescribed had expired—Whether mistake in filing such application in wrong Court bona fide—Delay whether can be condoned under section 14 of the Limitation Act—Limitation Act (IX of 1908)—Sections 14 and 29(2)(b)—Applicability of—Practice—Discretion under section 14 exercised by the lower Court—High Court, whether will interfere in the exercise thereof in revision.

Held, that there were large number of cases where the applications for fixation of standard rent had been made in the wrong Court and had been returned for presentation to the proper Court and had been so presented promptly but after the prescribed period of limitation. Thus it would seem that to hold that the mistake was not bona fide would be tantamount to branding as incompetent a fair number of the Delhi District Bar.

Held further, that there is nothing in the Delhi-Ajmer Rent Control Act expressly excluding the provisions of section 29(2)(b) of the Limitation Act and, therefore, section 14 of the Limitation Act is clearly applicable and the delay in presenting the applications, filed in the wrong Court, to the proper Court, after the prescribed period of limitation could be condoned.

Held also, that the decision whether a particular set of circumstances justifies a Court in giving a litigant the benefit of the provisions of section 14 of the Limitation Act, amounts to exercising a discretion, and where such a discretion has been exercised without violating the ordinary principles governing such matters this Court would be very reluctant to interfere by way of revision.

Petition under section 35 of Act 38 of 1952, for revision of order of Shri Hans Raj, Senior Sub-Judge, with Enhanced Appellate Powers, Delhi, dated the 25th February, 1954, reversing that of Shri Harcharan Singh Loomba, Sub-Judge, 1st Class, Delhi, dated 2nd December, 1953, and holding that the application is within time.

G. S. VOHRA, for Petitioner.

GURBACHAN SINGH, for Respondent.

JUDGMENT

Falshaw, J.

FALSHAW, J. This judgment will deal with five revision petitions (Nos. 155-D, 156-D, 157-D of 1954, 198-D of 1954, and 427-D of 1954) in which the points involved are common. In each of the cases a tenant had filed an application in the Court of the Additional Small Cause Court Judge under the provisions of the Delhi and Ajmer Rent Control Act of 1952 for the fixation of the standard rent of the premises occupied by him, the application in Civil Revision No. 198-D was filed on the 26th of November, 1952, that in Civil Revision No. 427-D on the 31st October, 1952, and the applications in the other three cases being filed on the 8th of December, 1952, which happened to be last day of limitation since section 11 of the Act in the portion relevant to these cases had fixed the period of limitation as six months from the commencement of the Act.

It appears, however, that although under the Act which was replaced by the Act of 1952 the Small Cause Court Judge had jurisdiction to decide these matters in cases where the annual rental value was not more than Rs. 2,000, section 33 of the new Act made a change and gave jurisdiction only to those civil Courts which had jurisdiction to hear and decide suits for recovery of possession of any premises. In other words, after the commencement of the new Act the Small Cause Court Judge was no longer competent to fix the standard rent of any premises even of an annual rental value of less than Rs. 2,000. The result was that on various dates the applications in these cases were returned by the Additional Small Cause Court Judge for presentation to the proper Court and they were promptly filed in the Court of the Sub-Judge having jurisdiction.

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Falshaw, J.

The landlords then naturally raised the objection that the applications were barred by time. This objection was upheld by the learned Subordinate Judge who decided the cases and the applications were accordingly dismissed. On appeals by the tenants, however, the learned Senior Sub-Judge came to the conclusion that a bona fide mistake had been made and that the tenants were entitled to the benefit of section 14 of the Limitation Act. He, therefore, accepted the appeals and referred the cases to the lower Court for decision on the merits.

Prima facie there do not appear to be any very strong reasons why in revision this Court should reverse the decision of the appellate Court to the effect that the tenants in these cases should be excused for having filed their applications by mistake in the Court which hitherto had jurisdiction to entertain them, and that it was a fit case for giving them the benefit of section 14 of the Limitation Act. It would in fact appear from the judgment of learned Senior Sub-Judge that these are not the only five cases of this kind and that there was a large number of cases in which the same mistake had been made and thus it would seem that to hold that the mistake was not bona fide would be tantamount to branding as incompetent a fair number of the Delhi District Bar. The decision whether a particular set of circumstances justifies a Court in giving a litigant the benefit of the provisions of section 14 of the Limitation Act amounts to exercising a discretion, and where such a discretion has been exercised without violating the ordinary principles governing such matters this Court would be very reluctant to interfere by way of revision.

It has, however, been argued that section 14 of the Limitation Act does not apply and that

limitation could only be extended for the reasons given in the proviso to section 11 of the Rent Control Act which reads—

> "Provided that the Court may entertain the application after the expiry of the said period of six months if it is satisfied that the applicant was prevented by sufficient cause from filing the application in time."

While I do not altogether agree with the view of the learned Senior Sub-Judge that this proviso could be held to apply to the cases of the present tenants, who could not in my opinion be said to have been prevented by any sufficient cause from filing their applications in time since they did in fact file the applications in time in wrong Court, I agree with him that the provisions of section 14 are applicable and I do not consider that the proviso to section 11 suspends the ordinary law regarding limitation. Section 29 (2) of the Limitation Act provides—

> "Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed therefor by the First Schedule, the provisions of section 3 shall apply, as if such period were prescribed therefor in that schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law—
>
> (a) the provisions contained in section 4, sections 9 to 18, and section 22 shall apply only in so far as, and to the extent to which, they are not ex-

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pressly excluded by such special or local law ; and

(b) the remaining provisions of this Act shall not apply."

Falshaw, J.

There is certainly nothing in the Rent Control Act which expressly excludes the provisions of Section 29 (2) (b) and therefore section 14 is clearly applicable.

An attempt was made by the learned Counsel in Civil Revisions Nos. 155 to 157-D to distinguish those cases from the other two on the ground that the applications for fixation of standard rent were only made on the last day of the limitation, and that although these applications were returned to the tenants on the 24th of February, 1953, they were only filed in the proper Court on the 27th of February, after a delay of three days, whereas in the other cases the applications had not only been filed long before the last day of limitation but also when returned, they were filed in the proper Court on the same day. I find, however, that on these three applications there are two dates, both the 24th and the 26th of February, 1953, being entered as the date of return, and it would appear, as was pointed out by the learned counsel for the respondents in these cases, that there was a large number of similar applications and although some general order for their return may have been passed on the 24th of February the applications were actually only returned on the 26th and so they were filed the following day, which in my opinion is sufficiently promptly. I am, therefore, of the opinion that there are no grounds for interfering in these cases and dismiss the revision petitions with costs. Counsel's fee Rs. 25 in each case.

The parties have been directed to appear in the lower Court on the 21st November, 1955.