

(1912) 05 AHC CK 0019
In the Allahabad High Court

Din Ram and Another

APPELLANT

Vs

Hari Das

RESPONDENT

Date of Decision : 03-05-1912

Acts Referred:

Citation : 14 Ind. Cas. 744

Hon'ble Judges : Henry Richards, C.J;Tudball, J;Karamat Husain, J

Bench : Full Bench

Judgement

1. The facts of this case are as follows:

The Munsif delivered judgment in this case on the evening of 23rd of December 1910 allowing the plaintiff's claim in full. The Christmas vacation began the next day and the Court did not reopen till the 14th of January 1911 after the Muharram holidays. The appellant applied for a copy of the judgment and decree on the 14th of January and obtained it on the 19th. On the evening of the 27th of January, he handed an appeal to the District Judge at his private residence. If this can be deemed a sufficient presentation of the appeal, the appeal is within time. The District Judge dismissed the appeal as barred by limitation, on the strength of the ruling in *Jai Kuar v. Heera Lal* 7 N.W.P.H.C.R. 5. In our opinion, the appeal must be deemed to have been presented within time. No doubt, the learned District Judge might have refused to receive the appeal out of Court hours but he did not think fit to do so. He received the appeal and subsequently made an endorsement on it showing that it had been presented to him at 4-50 P.M. on the 27th of January and stating that it would be admitted if it was found to be within limitation and the other requirements of the law had been complied with. No reasons are given in the ruling of the Court referred to above and we do not think that it should be followed. It is a matter of common knowledge that applications are, in cases of emergency, made to Judges at their private residences and are received by them. It is impossible to hold that Judges act in such circumstances without jurisdiction. The present case was one of emergency. The 27th of January was the last day of limitation for the appeal. In our opinion,

the learned District Judge was justified in receiving the appeal at his private residence and the appeal must be deemed to have been presented within time. The District Judge was right in following the ruling of this Court but, for the reasons which we have given, we think that that ruling was erroneous. We set aside the decree of the District Judge and remand the case to him with directions that the appeal be restored to the pending file and disposed of according to law. Costs here and hitherto will be costs in the cause. The costs in the Court will include fees on the higher scale.