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SINDH ACT NO.XIII OF 1912
[THE LIMITATION (AMENDEMENT) ACT, 1912.]

29th November, 1912.]

An Act to amend the [2]* Limitation Act, 1908.

IX of 1908

WHEREAS it is expedient to amend the [2]* Limitation Act, 1908, in the manner hereinafter appearing:

AND WHEREAS the previous sanction of the Governor-General required by section 5 of the [3]Indian Councils Act, 1892, has been obtained for the passing of this Act; It is hereby enacted as follows:-

Short title.

1. This Act may be called the [4]* Limitation (Amendment) Act, 1912.

Amendment of section 31.

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2. Notwithstanding anything contained in the 2* Limitation Act, 1908, hereinafter called "the said Act", in computing the period of two years mentioned in section 31 of the said Act in the case of any suit by a mortgage for foreclosure or for sale for which a certificate granted under section 46 of the [5][Sindh] Agriculture, Relief Act, 1879, is required the time intervening between the application made by the mortgagee under section 39 of the last mentioned Act, and the institution of such suit shall be excluded, provided that such suit has already been instituted, or is instituted within six months from the commence of this Act; and no such suit shall be dismissed on the ground that the certificate was not obtained within the year immediately preceding the filing of the suit.

Applicability of section 4 of the Limitation Act, 1908.

3. The period of two years mentioned in section 31 of the said Act shall for the purposes of this Act be deemed to be a period of limitation within the meaning of section 4 of the said Act.

Retrospective effect of section 3.

4. The provisions of section 3 shall be deemed to have come into operation from the seventh day of August, 1908.

Provision or restoration of suits.

5. (1) Where the claim of a mortgagee for foreclosure or for sale for which a certificate granted under section 46 of the 5[Sind] Agriculturists' Relief Act, 1879, is required has been wholly or in part dismissed or withdrawn after the seventh day of August, 1910, and before the commencement of this Act either in a Court of first instance or of appeal or of revision and the Court on application made as hereinafter provided is satisfied that such claim was so dismissed or withdrawn on the ground that ---

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1. For Statement of Objects and Reasons, see B.G.G., 1912, Pt. VII, p. 536; and for Proceedings in Council, see ibid., 1912, Pt. VII, pp. 787 and 866.
2. The word "Indian" omitted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 4 (w.e.f. 30th May, 1955).
3. The then Constitutional Law in force.
4. The word "Indian" rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955) s. 6, Sch. II.
5. Subs. ibid., s. 7, Sch. III for "Dekkhan".

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(a) the time intervening between the application made by the mortgagee under section 39 of the 1[Sind] Agriculturists' Relief Act, 1879, and the grant of the certificate under section 46 of the last mentioned Act or the institution of the suit, as the case may be, could not be excluded in computing the period of two years mentioned in section 31 of the said Act, or

(b) the certificate was not obtained within the year immediately preceding the filing of the suit, or

(c) the period of two years mentioned in section 31 of the said Act was not a period of limitation within the meaning of section 4 of the said Act,

the case shall be restored on an application in writing to the Court, by which the claim was dismissed or in which it was withdrawn; provided that such application is made within six months from the commencement of this Act.

(2) Where any such claim as aforesaid has been dismissed for failure to prosecute such claim after the seventh day of August, 1910 and before the commencement of this Act either in a Court of first instance or of appeal or of revision, and the Court on application made as hereinafter provided is satisfied that such failure was due to the belief that such claim, if prosecuted, would be dismissed for any of the grounds specified in clauses (a), (b) and (c) of sub-section (1), the case shall be restored on an application in writing to the Court by which the claim was dismissed; provided that such application is made within six months from the commencement of this Act.

(3) The provisions of section 2, 3 and 4 shall apply to any case restored under either of the foregoing sub-sections.

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Provision for restoration of applications.

6. Any application by the mortgagee under section 39 of the 1[Sind] Agriculturists' Relief Act, 1879, in respect of any claim for sale or foreclosure as to which the mortgagee was entitled to the benefit of the two years' period mentioned in section 31 of the said Act, made on or before the eighth day of August, 1910, and dismissed after the twenty-third day of February, 1911, shall be restored to the file of the Conciliator; provided that the application for such restoration is made within two months from the commencement of this Act.

Third parties protected.

7. Nothing in this Act shall affect the interest of third parties that may have come into existence between the twenty-third February, 1911, and the twenty-eight of September, 1912.

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1. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance 1955 (Sind 5 of 1955), s. 7, Sch. III, for "Dekkhan".