

**Hashmat Ali Vs. Mohan and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/477734](http://sooperkanoon.com/477734)

**Court :** Allahabad

**Decided On :** Mar-01-1920

**Reported in :** AIR1920All181; 55Ind.Cas.871

**Judge :** P.C. Banerji, J.

**Appellant :** Hashmat Ali

**Respondent :** Mohan and ors.

**Judgement :**

**P.C. Banerji, J.**

1. This is an application for revision of a non appealable order on the ground that the Court below has wrongly decided the question of limitation raised in the suit. The application is one under Section 115 of the Code of Civil Procedure. A preliminary objection has been taken to the hearing of the application on the ground that it is not maintainable under the provisions of that section. This objection is, in my opinion, well founded. There was no question of jurisdiction in the case and the only question is whether the Court below in the exercise of its jurisdiction has committed a mistake of law. It was held by their Lordships of the Privy Council in the case of Balakrishna Udayar v. Vasudeva Ayyar 40 Ind. Cas. 650 : 40 M. 793 : 15 A.L.J. 645 : 2 P.L.W. 101 : 33 M.L.J. 69 : 26 C.L.J. 143 : 19 Bom. L.R. 715 : (1917) M.W.N. 628 : 6 L.W. 501 : 22 C.W.N. 50 : 11 Bur. L.T. 48 : 44 I.A. 261 (P.C.) that 'the section applies to jurisdiction alone, the irregular

exercise or non-exercise of it, or the illegal assumption of it. The section is not directed against conclusions of law or fact in which the question of jurisdiction is not involved.' As I have already stated, there is no question of jurisdiction involved in this case. The question is whether the Court below has committed a mistake of law in the exercise of its jurisdiction. That is not a question which can be considered by this Court under the provisions of Section 115, I accordingly dismiss the application with costs.

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