

1869  
March 4.

*Civil Petition*  
*Ex Parte Krishna Padhe.*

*Practice—Appeal—Time for appealing—Holiday.*

When the last day for presenting an appeal falls upon a Sunday or close holiday, an additional day is to be allowed for the presentation of the memorandum of appeal.

This was an application to set aside an order of J. R. Naylor, Acting Senior Assistant Judge of the Konkan at Ratnagiri, refusing to receive a memorandum of appeal.

The petitioner wished to prefer an appeal against the decree of the Munsif of Karepatan to the Senior Assistant Judge. The period within which it was necessary to prefer the appeal expired on the 21st of August 1868. But as that day was a holiday (Ganash Chaturthi), the petitioner presented the memorandum of appeal on the following day. The acting Senior Assistant Judge, however, rejected it, observing, "it is not proper to give the benefit of yesterday (to the petitioner) it being a regulation holiday and this appeal is time-expired."

The case was heard before TUCKER and GIBBS; JJ.

*Shantaram Narayan*, for the applicant, cited *Rajkisto Roy v. Deno Bundoo Surmah* (a) and relied upon the case there referred to.

TUCKER, J.—In accordance with the practice of this Court and that of the Court in the other Presidencies, we are of opinion that an extra day should be allowed when the last day falls on a Sunday or any other close holiday, and that, therefore, the petitioner entitled to have an extra day, the last day on which he should have filed his appeal being a holiday.

We, therefore, reverse the order of the Senior Assistant Judge and order the appeal to be Admitted.

GIBBS, J.—Concurred

a) 3 Calc. W. Rep. S. C. C. 4. 6.