

B. Das and Co. Vs. the Broach Electric Supply and Development Corporation, Limited.

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Court : Mumbai

Decided On : Nov-10-1927

Reported in : AIR1928Bom55; (1928)30BOMLR90; 108Ind.Cas.18

Judge : Amberson Marten, Kt., C.J. ;and Crump, J.

Appeal No. : O.C.J. Appeal No. 5 of 1927

Appellant : B. Das and Co.

Respondent : The Broach Electric Supply and Development Corporation, Limited.

Disposition : Appeal allowed

Judgement :

Amberson Marten, Kt., C.J.

1. This is an appeal from a judgment of Mr. Justice Mirza. The learned Judge set aside an award in effect for the reason that a letter marked without prejudice in the body of the letter was tendered to the arbitrator who read it. There was then some discussion on its contents, but eventually he rejected the letter as evidence. It is said that, although the letter was rejected as evidence, yet nevertheless the arbitrator saw it, and it follows that it must have prejudiced his mind, and consequently he committed misconduct for which his award must be set aside. In

our opinion this finding of the learned Judge cannot be sustained. Even if it was a case of a Judge in Court, documents are often tendered to the Court on which the Court has to decide whether they are admissible or inadmissible. If then one was to hold that in every case in which a Judge rejects as evidence any document handed up to him, it follows that his mind must have been prejudiced by what he read and that consequently his judgment cannot stand, the result would be really absurd. The appeal must be allowed, and the notice of motion dismissed with costs. Respondents must pay the costs of the appeal.

Crump, J.

2. I agree.

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