

Chuha Mal Vs. Har Ram

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1886)ILR8All548

Judge : Oldfield and; Brodhurst, JJ.

Appellant : Chuha Mal

Respondent : Har Ram

Judgement :

Oldfield, J.

1. This is an appeal from the decree of the Judge setting aside the decree of the Court of First Instance made on an award of arbitrators.
2. The matter in dispute had been referred to arbitration under Section 506 and following sections, Civil Procedure Code, and a time fixed for submission of the award, which was extended the award, however, was not submitted till two days after the expiry of the time allowed.
3. Objections were taken to the award by the defendant, which did not include any as to its invalidity by reason of its being submitted after the time allowed. The objections were disallowed, and the Court made a decree in accordance with the award.

4. The defendant appealed to the Judge on the ground that the award was invalid, and the Judge, allowing the plea, has set aside the decree. The plaintiff now appeals to this Court, and contends that under Section 522, Civil Procedure Code, no appeal lay to the Judge, and that the defendant is estopped from raising the objection, as he failed to raise it in the Court of First Instance. Section 521 enacts that no award shall be valid unless made within the period allowed by the Court. The award in this case was not made within the period allowed by the Court, and consequently it must be held to be invalid, that is, there was no award on which the Court could make a decree. I think the law (Sections 508 and 514) requires that there shall be an express order of the Court fixing the time for delivery of the award, or for extending or enlarging such time; and the mere fact that the Court has passed a decree in accordance with the award, cannot be taken as affording a presumption that an extension of time was given; nor do I think that the defendant is estopped from raising this particular ground of objection because he did not raise it in the first Court; it is not shown that he was then aware of the defect, or had done anything to imply consent to extension of the time.

5. As the award was invalid, the decree of the first Court is not a decree in accordance with an award from which no appeal lies, with reference to the Pull Bench ruling of this Court I.L.R. 6 All. 174. I would dismiss the appeal with costs.

Brodhurst, J.

6. I entirely concur in dismissing the appeal with costs, and in the reasons given by my brother Oldfield for so doing.

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