

Manphool Vs. Sahi Ram and ors.

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Court : Allahabad

Decided On : Jun-25-1917

Reported in : AIR1918All126; 43Ind.Cas.154

Judge : Walsh, J.

Appellant : Manphool

Respondent : Sahi Ram and ors.

Judgement :

Walsh, J.

1. I must allow this appeal. As regards the question whether the order of the Munsif setting aside the award could be challenged in appeal before the District Judge, there is a decision binding upon me by two Judges of this Court in the case of Ram Autar Tewari v. Deoki Tewari 29 Ind. Cas. 411 : 13 A.L.J. 653 : 37 A. 456, which apparently was not brought to the notice of the learned Judge of the Court below, as he held himself bound by Ganga Prasad v. Kura 28 A. 408 : A.W.N. (1906) 64 : 3 A.L.J. 168, which has since been differed from. The further question arises whether the Munsif's order can be supported. He appears to have set aside, the award upon the ground that although there were two arbitrators, the award was signed only by the plaintiff's arbitrator and the umpire and that, therefore, it was invalid. There is a decision reported as Muthukutti Nayakan v. Acha Nayakan 18 M. 22 : 6 Ind. Dec. (N.S.) 365 which, although not binding upon me, I should in

any case follow and hold that this is not a sufficient ground for setting aside an award. The Munsif before doing so should have gone into the merits and ascertained whether the award had been arrived at by the arbitrators and represented the decision. Apart from this if it were held that failure by the arbitrator of one party to sign an award rendered it invalid, it would always be possible for any party to render arbitration proceedings wholly infructuous by persuading his arbitrator not to sign the award. In the absence of authority to support the decision of the Court below, I have no option but to allow the appeal with costs here and in the lower Court, and I direct a decree to be drawn up in favour of the plaintiff in accordance with the award.

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