

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeals of Hansraj and others v. Sundar Lal and another, from the Chief Court of the Punjab; and of Hansraj and others v. Dwarka Das and another (Respondents) and the Secretary of State for India in Council (Intervenant), from the Court of the Agent to the Governor-General in Central India; delivered the 18th March 1908.*

Present at the Hearing :

LORD MACNAGHTEN.

LORD ATKINSON.

SIR ANDREW SCOBLE.

SIR ARTHUR WILSON.

[*Delivered by Lord Macnaghten.*]

The parties to these two Appeals or their predecessors in title have been in litigation now for more than 20 years. The subject of litigation is the property of a joint Hindu family engaged in business, with branches in different parts of the country. Part of the family property is situated in British India; part in native States. The litigation was begun, in 1886, in the Court of the Political Agent at Sehore, in Bhopal, by a suit for partition of so much of the family property as was within his jurisdiction. The next proceeding was a suit for partition, commenced in 1888, in the Court of the District Judge of Karnal, in the Punjab.

In August 1897, after prolonged litigation, the parties to the Punjab suit nominated Mr. S. Clifford, Divisional Judge of Delhi, sole arbitrator to decide the matters in dispute in the

suit. The arbitrator was to determine what joint property, moveable and immoveable, except the immoveable property outside British India, was to be partitioned between the parties. The appointment of Mr. Clifford was duly confirmed by the Court.

The arbitrator finally submitted his award on June 29th, 1900.

The Appellants filed a great number of objections to the award. These objections were considered and disposed of by the District Judge of Delhi, who passed a decree in accordance with the award.

The objections filed by the Appellants were all more or less frivolous. In some the arbitrator was charged with misconduct, but, on the face of the objections, it is perfectly clear that there was no misconduct within the meaning of that expression in the chapter on arbitration in the Civil Procedure Code, nor anything that could justify the Court in setting aside or remitting the award.

From the decree of the District Judge the Appellants appealed to the Chief Court of the Punjab.

The Chief Court dismissed the Appeal on the ground that the Appeal was incompetent, inasmuch as it did not appear that the decree was in excess of, or not in accordance with, the award.

In the meantime the Political Agent in Bhopal had made a decree in accordance with Mr. Clifford's award. There was an Appeal to the Court of the Agent to the Governor-General in Central India, but the Appeal was dismissed. Special leave to appeal against the order of the Agent to the Governor-General was granted by this Board on the representation that there was or might be an important question as to the jurisdiction of the Court of the Political Agent. And liberty was reserved to the Secretary

State for India in Council to intervene in his official capacity. Mr. Cohen, who appeared for the Secretary of State, not admitting that an Appeal would lie to His Majesty in Council from the order of the Agent to the Governor-General in India, intimated that the Court of the Political Agent in Bhopal would be guided by the decision of the Chief Court of the Punjab if His Majesty thought fit to affirm that decision.

In their Lordships' opinion the decision of the Chief Court is perfectly right. Their Lordships will therefore humbly advise His Majesty that both Appeals should be dismissed.

The Appellants will pay the costs of the Appeals other than the costs of the Intervenant.

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