
(1868) 07 CAL CK 0014

Calcutta High Court

Case No: None

Mohanlal

APPELLANT

Vs

Nathuram

RESPONDENT

Date of Decision: July 13, 1868

Judgement

Norman, J.

I am of opinion that the plaintiff is entitled to judgment in terms of the award. The only question which created any difficulty in my mind was, whether the arbitrator had power to award the costs of the award and reference. The rule in England, undoubtedly, is, that a submission of all matters in difference does not give the arbitrator power to award the costs of the reference and award, but only the costs of the suit, and that in such a case each party must bear his share of the costs of the reference and award. There the Court is constituted by the parties, and its powers must be strictly construed. Here the case is somewhat different.

2. Section 315 of Act VIII of 1859 contains the only provision for the order of reference, and is in these terms: "The Court shall, by an order under its seal, refer to the arbitrator or arbitrators the matters in difference in the suit which he or they may be required to determine, and shall fix such time as it may think reasonable for the delivery of the award, and the time so fixed shall be specified in the order." That is the whole provision with respect to the order for reference. The only provision for costs is contained in Section 322: "The Court may, also, on such application, make such order as it thinks just respecting the costs of the arbitration, if any question arise respecting such costs; and the award contain no sufficient provision concerning them." It is here clearly contemplated that an award, made under an order in the terms of Section 315, should contain a sufficient provision for costs.