
Keshavlal Mohanlal Jhaveri Vs Bai Lakshmi

Civil Revisional Application No. 83 of 1923

Court: Bombay High Court

Date of Decision: April 5, 1928

Citation: (1928) 30 BOMLR 950 : (1928) ILR (Bom) 568

Hon'ble Judges: Mirza, J; Fawcett, J

Bench: Division Bench

Judgement

Mirza, J.

We have heard full arguments in this matter but the point seems to us to be a simple one, and depends upon the interpretation we are to put upon the writing sent to the arbitrators by the learned Judge. The application made by the plaintiffs to the arbitrators was that certain

suits having been sent to the arbitrators and fixed by them for taking evidence that day the applicants were present under protest and wished that

the arbitrators would note that fact. On that application the arbitrators made the endorsement ""As the plaintiff gives the application as stated above,

we do not think it proper that we should decide these matters under these circumstances. Therefore we return the proceedings."" On receipt of the

papers and proceedings the learned Judge returned them with a note as follows: "As the plaintiff gives the application as stated above,

The arbitrators are requested to finish the work. The protest does not matter. It is unjustified. The Court has confidence in the arbitrators. The

Arbitrators should not retire for that would mean that the plaintiff succeeds in his tactics. If not for anything else at least for the sake of principle and

in order to put down such tactics they ought to continue.

2. After receipt of this note the arbitrators resumed their arbitration and fixed a meeting to proceed with the arbitration from a point where they had

left it. At that meeting the applicants appeared by their pleader without any protest, and applied for an adjournment. That application was acceded

to, and the proceedings were adjourned to March 18. Meanwhile on March 16, 1928, the applicants took out this rule and obtained an interim

stay of the arbitration proceedings. The interpretation we put upon the writing of the learned Judge is, that it is not an order which forces or

compels the arbitrators to resume the arbitration against their own wish. It is in the nature of a request made to the arbitrators to reconsider their

decision and to resume the arbitration if they were agreeable to do so. Had it been an order compelling the arbitrators against their will to resume

the arbitration, the case would fall under the ruling in *Shibcharan v. Ratiram* I.L.R (1884) All. 20 and the further proceeding in arbitration would be

vitiated. But that is not the case here. In our opinion the present case falls under the rulings in *Har Narain Singh v. Bhagwant Kuar* I.L.R (1887)

All. 187; *Maharajah Joymungul Singh Bahadoor v. Mohwn Ram Marwaree Q*; and *Basdeo Mal Gobind Prasad v. Kanhaiya Lal, Lachmi Narain*.

I.L.R (1920) All. 101. In the view we have taken, no question of jurisdiction arises, and the application is, therefore, dismissed with costs. The

interim stay granted is dissolved and the rule discharged with costs.