

*Judgment of the Lords of the Judicial Committee  
of the Privy Council on the Appeal of  
Raja Har Narain Singh v. Chaudhrain  
Bhagwant Kuar, and Chaudhrain Ram Kuar  
from the High Court of Judicature for the  
North Western Provinces Allahabad; delivered  
January 27th, 1891.*

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Present:

LORD WATSON.

LORD MORRIS.

SIR RICHARD COUCH.

[*Delivered by Lord Morris.*]

This case must, in their Lordships' opinion, be decided entirely upon the construction of the Civil Procedure Code, Sections 508, 514 and 521, and it does not appear that the construction of those sections can be very much aided by analogies drawn from sections of the English Common Law Procedure Act which have been referred to, dealing with arbitrations, because a specific rule has been laid down in the Code for dealing with arbitrations, probably grounded on reasons of public policy.

By Section 508 it is laid down that the Court shall by Order refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the delivery of the award and specify such time in the Order. In this case the Order of Reference made by the Court does not specify, directly, any time. It merely fixes a date for the hearing of the case by the Court, which is not in strict compliance with the terms of the section, though it might be sufficient. Their Lordships are of opinion that Section 508

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is not merely directory, but that it is mandatory and imperative. Section 521 declares that no award shall be valid unless made within the period allowed by the Court, and it appears to their Lordships that this section would be rendered inoperative if Section 508 is to be merely treated as directory. In the present case, however, the Subordinate Judge repeatedly made orders enlarging the time, and in those orders fixed the time within which the award was to be made, although he did not do so in the original Order of Reference; and their Lordships are of opinion that it was competent for the Subordinate Judge to do so under Section 514 of the Code, which enables the Court to grant a further time and from time to time to enlarge the period, for the delivery of the award, in cases when it cannot be completed within that period, from want of necessary evidence or from any other cause. The last order of enlargement made by the Subordinate Judge was on the 13th of March 1885, extending the time to the 20th of March 1885, and no longer. No award was delivered within that time, though one was delivered on the 24th of March 1885, and the first question which appears to their Lordships to arise is whether it would have been competent for the Subordinate Judge to have extended the time after the award was made. Their Lordships are of opinion that it would not. When once the award was made and delivered the power of the Court under Section 514 was spent, and although the Court had the fullest power to enlarge the time under that Section as long as the award was not completed, it no longer possessed any such power when once that time was passed. The Court did, however, receive the award delivered on the 24th of March 1885, and a decree was made upon it by the Subordinate Judge, which was confirmed by the High Court.

The objection now put forward for the Appellant is that this award is not valid. That contention has to support it the express statutory enactment that no award shall be valid unless made within the period allowed by the Court. The utmost period allowed by the Court was until the 20th of March 1885, and therefore the award delivered on the 24th of March 1885 was so delivered by arbitrators who no longer had any lawful authority to make it. Again, as a matter of fact, there was no enlargement of the time made by the Court after the 20th March 1885.

This objection to the award was apparently not brought to the notice either of the Subordinate Judge or of the High Court. But the statute is there, and the Judges were bound to take judicial notice of it.

In the case of *Chuha Mal v. Hari Ram* (8th Indian Law Reports, Allahabad Series, page 548) Mr. Justice Oldfield lays down the law upon this subject very clearly. He says, "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." That judgment appears quite in point in this case, and it is a judgment of which their Lordships entirely approve.

Upon these grounds their Lordships will humbly advise Her Majesty to reverse the judgments of the Subordinate Court and the High Court, to declare the award invalid, and to direct that the suit shall be proceeded with, and that neither party shall be entitled to costs in either Court below from and after the date of the first of the said judgments; and that the costs prior to that date shall await the issue of the case. The Respondents must pay to the Appellant the costs of this Appeal. The reason for not giving the Appellant the costs in the Courts below arises

from the fact that their Lordships are of opinion that the point upon which this award is now held to be invalid, was certainly not raised before the Subordinate Judge, nor, as far as appears, in the objections that were urged before the High Court.