unsatisfactory, and nothing can be allowed to the defendants on that account.

I agree that suit No. 106 as against the defendants Nos. 11 and 18, and his son and brother, defendants Nos. 19 and 21, who had sold their lands, should be dismissed with costs. I would make the same order as to the defendants Nos. 36 and 37 in suit No. 107.

I agree also that the Subordinate Judge should be directed to inquire how much is due from each of the defendants, and that on receipt of his return the decree should direct each tenant to pay the swamibhogam due by him.

The defendants, except those as to whom the suit has been dismissed or withdrawn, or who have died, must pay all the plaintiff's costs.

APPELLATE CIVIL.

Before Mr. Justice Muttusámi Ayyar and Mr. Justice Brandt.

SUPPU AND OTHERS (DEFENDANTS NOS. 3 TO 6), APPELLANTS,

and

GOVINDACHARYÁR (PLAINTIFF), RESPONDENT.*

1887. July 16.

Civil Procedure Code, ss. 514, 521, 522—Award, appeal against decree in terms of—Extension of time for presenting award—Evidence.

Where a decree purports to have been made in terms of an award under s. 522 of the Code of Civil Procedure, an appeal lies against it if there was no award in fact or in law.

An order extending the time for the presentation of an award upon an application presented within time is not bad in law by reason of its having been made after the expiry of the term which it purports to extend.

It is not a valid objection to an award that the arbitrators have not acted in strict conformity with the rules of evidence.

APPEAL against the order of K. R. Krishna Menon, Subordinate Judge of Tinnevelly.

Original Suit No. 62 of 1884, on the file of the Subordinate Court at Tinnevelly, was at the instance of both parties referred to arbitration. On the 10th October 1885, after the expiry of the time fixed for making the award, an application for the extension

* Appeal No. 123 of 1886.

SUPPU v. GOVENDACHARYÁR.

of the time was granted, and the arbitrators presented their award on 20th March 1886. The defendants objected to the award as being invalid on the grounds that the extension of time was illegal, and further that the arbitrators had not proceeded according to the rules of legal evidence. The Subordinate Judge overruled these objections and passed a decree in the terms of the award. The defendants preferred this appeal.

Subramanya Ayyar for respondent objected that no appeal lay and cited *Monji Premji Set* v. *Maliyakel Koyassan Koya Haji*, I.L.R., 3 Mad., 59, and *Micharaya Gáruru* v. *Sadasiva Parama Gáruru*, I.L.R., 4 Mad., 319.

Sankara Náyar for appellant.

An appeal lies in such a case as this—*Pugardin* v. *Moidin*—I.L.R., 6 Mad., 414. The test is whether the award was properly made, if not there is an appeal—*Lachman Das* v. *Brijpal*, I.L.R., 6 All., 174—The extension of time was irregular and illegal, Civil Procedure Code, ss. 514, 521, 522—*Simson* v. *Venkatagópalam*, I.L.R., 9 Mad., 475. Another objection is that the award should have been rejected on the ground of the misconduct of the arbitrators in the improper admission of evidence—*Pareshnath Dey* v. *Nobin Chunder Dutt*, 12 W.R., 93.

Subramanya Ayyar for respondent.

The extension of time was not irregular, Civil Procedure Code, s. 514—*Rámáya Gaundan* v. *Rámasvámi Ambalam*, 7 M.H.C.R., 173—*Pugardin* v. *Moidin*, I.L.R., 6 Mad., 414. The Court interfered in revision in *Simson* v. *Venkatagópalam*, I.L.R., 9 Mad., 475.

[BRANDT, J.—The Court interferes where there is no award in fact or in law.]

That is not the present case. The rules of evidence do not apply to arbitrators. Evidence Act, s. 1, *Howard* v. *Wilson*, I.L.R., 4 Cal., 231; Russell on Awards, sixth Edition, p. 310.

The further arguments adduced on this appeal appear sufficiently for the purpose of this report from the judgment of the Court (Muttusámi Ayyar and Brandt, JJ.).

JUDGMENT.—The preliminary objection has been taken that no appeal lies under s. 522.

That section presupposes the existence of an award as the basis of the decree, and it cannot apply to a case in which there has been no award in law or in fact. It is urged that there was

no award in law in this case, first, because the time originally fixed for making the award was in two instances extended after the expiration of the period previously fixed, and, secondly, because the award shows on its face that it does not rest on legal evidence. As to the first objection we see no reason to think that the order made by the Subordinate Judge upon an application for an extension of time presented within time was bad in law by reason of its being made after the expiry of the term which it purported to extend. Section 514 provides that the Court may, if it thinks fit, grant a further time, and from time to time enlarge the period for the delivery of the award, while s. 521 enacts that no award shall be set aside, except on certain specified grounds, and that no award shall be valid unless made within the period allowed by the Court.

There is then no ground for holding the award to be invalid upon the ground suggested. The case of *Simson* v. *Venkatagópalam*(1) is only an authority for the proposition that time should not be extended so as to validate an award which the arbitrators had no jurisdiction to make when they made it. On referring to the award itself, we see no objection on the face of it such as to vitiate it. It is alleged that there is no legal evidence on which the arbitrators were entitled to recognise the plaintiff's claim to the extent to which they decreed it. But the award contains a distinct statement that the claim, so far as it was allowed, was proved to the satisfaction of the arbitrators; nor is it a valid objection to an award that the arbitrators have not acted in strict conformity to the rules of evidence. We see no reason to think that the award on which the decree appealed against rests is bad in law, and we dismiss this appeal with costs.

(1) I.L.R., 9 Mad., 475.