

1879

TAMAK
CHAND
v.
RAM
RAYAN.

There were no objections taken under s. 324, and under the circumstances the Court should have given judgment according to the award.

Appeal allowed.

1879
Arch 11.

Before Sir Robert Stuart, Kt., Chief Justice, Mr. Justice Pearson, Mr. Justice Spankie, and Mr. Justice Oldfield.

FAZAL MUHAMMAD (PLAINTIFF) v. PHUL KUAR (DEFENDANT).*

Appeal under cl. 10 of the Letters Patent—Computation of Limitation.

In computing the period of limitation prescribed for an appeal under cl. 10 of the Letters Patent, the time requisite for obtaining a copy of the judgment appealed from cannot be deducted, such copy not being required, under the rules of the Court, to be presented with the memorandum of appeal.

THIS was an appeal to the Full Court, under cl. 10 of the Letters Patent, which had been preferred two days after the period of limitation (1) had expired.

On behalf of the appellant it was contended that the time requisite for obtaining a copy of the judgment appealed from should be deducted, in computing the period of limitation. On behalf of the respondent it was contended that, inasmuch as under the Rules of Practice adopted by the High Court on the 21st May, 1873, regarding the admission of appeals under cl. 10 of the Letters Patent, a copy of the judgment appealed from was not required to be presented with the memorandum of appeal (2), the time for obtaining a copy could not be deducted.

The *Senior Government Pleader* (Lala Juala Prasad), *Munshi Hanuman Prasad*, and *Maulvi Mehndi Hasan*, for the appellant.

Mr. Colvin, for the respondent.

The Full Bench delivered the following

JUDGMENT.—The Full Bench is of opinion that the appeal is beyond time and not entitled to be admitted. It is therefore dismissed with costs.

* Appeal under cl. 10, Letters Patent No. 4 of 1878.

(1) Under the Rules of Practice adopted by the High Court on the 21st May, 1873, regarding the admission of appeals under cl. 10 of the Letters Patent, such appeals must be preferred within ninety days, "unless the Court, in its

discretion, on good cause shown, shall grant further time."

(2) Rule iii.—The appellant shall not be required, as in ordinary appeals, to file, with such petition of appeal, a copy of the judgment appealed from.