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to Russell on the Power and Duty of an Arbitrator. This is a proposition to which I cannot assent. In the case of *Pestonjee Nussurwanjee v. Manockjee & Co.*, (1) it was held by their Lordships of the Privy Council that "where parties had agreed to submit the matter in difference between them to the arbitration of one or more specified persons, no party to such agreement could revoke the submission unless for good cause, and that a mere arbitrary revocation of authority would not be permitted." The learned counsel has entirely failed to show that any good cause existed which would have justified his client in withdrawing from the submission, if he withdrew at all, which is open to doubt. I think the lower appellate Court properly dismissed the appeal.

BY THE COURT.—The order of the Court is that this appeal be dismissed with costs.

Appeal dismissed.

Before Mr. Justice Blair and Mr. Justice Aikman.

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November 25.

MUHAMMAD YUSUF ALI KHAN (DEPENDANT) v. DAL KUAR (PLAINTIFF).*

Pre-emption—Wajib-ul-arz—Transfer to plaintiff pre-emptor after sale—

Hindu widow in possession for widow's estate.

Held that the daughter of a Hindu widow to whom the widow had relinquished a share in a village, of which share she was in possession for a widow's life estate, was entitled to pre-emption in respect of a sale which had taken place in the village prior to the relinquishment made to her by her mother. *Sheo Narain v. Hira* (2) distinguished.

THIS was a suit for pre-emption based on a *wajib-ul-arz*. One Puran Mal, a co-sharer in the village in which the land sold was situate, died on the 6th of December 1893 leaving a widow Kesur Kuar and a daughter Dal Kuar. On the 22nd of January 1894, one Jagannath sold to the defendant Muhammad Yusuf Ali Khan, who was a stranger, a share in the village in which Puran Mal had been a co-sharer. Subsequently to this sale

* Second Appeal No. 923 of 1895 from a decree of T. C. Piggott, Esq., Additional Judge of Aligarh, dated the 6th August 1895, confirming a decree of Bahu Achal Behari Lal, Munsif of Etah, dated the 19th March 1895.

(1) 12 Moo. I. A., 112.

(2) I. L. R., 7 All., 536.

Kesar Kuar relinquished in favour of her daughter Dal Kuar all her rights in the property which had been of Puran Mal in his life-time, and mutation of names was effected in favour of Dal Kuar on the 2nd of May 1894. On the 21st of January 1895 Dal Kuar brought a suit for pre-emption in respect of the sale to Muhammad Yusuf Ali Khan of the 22nd of January 1894. The plaintiff's claim was decreed by the Court of first instance (Munsif of Etah). The defendant vendee appealed, and his appeal was dismissed by the lower appellate Court (District Judge of Mainpuri). The defendant vendee thereupon appealed to the High Court.

Maulvi *Ghulam Mujtaba*, for the appellant.

The respondent was not represented.

BLAIR J. (AIKMAN, J. concurring):—This is a pre-emption suit based upon the *wajib-ul-arzes* of two villages. The plaintiff is the daughter of one Puran Mal, and the title she alleges is that upon her father's death, the widowed mother, having become entitled to a life estate in the property, relinquished all her rights to the plaintiff, who thereupon entered into possession and was duly recorded as a co-sharer.

The sale which constituted the cause of action took place on the 22nd of January 1894. Puran Mal died on the 6th of December 1893. The appellant represented by Mr. *Mujtaba*, disputes the right of the plaintiff to pre-empt upon the ground that the voluntary relinquishment of the mother to the daughter, after the completion of the sale, could not confer upon her any right of pre-emption. In support of that contention Mr. *Ghulam Mujtaba* cited to us a Full Bench case, *Sheo Narain v. Hira* (1). That case is not on all fours with the case we have to decide. It was a sale to a person other than a co-sharer, and the plaintiff who claimed to pre-empt was himself a stranger who had purchased a share in the village. The inconveniences which formed the basis of that decision are set forth in detail in the judgment, and no doubt formed a very substantial part of the

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ratio decidendi. Differing from the present case in that very material respect, that case affords no guidance to us in a case where the person claiming to pre-empt is not a stranger who has acquired a share in the village. There is another argument used in the judgment of Mr. Justice Mahmood to support the decision, the propriety of which I do not question, which appears to me to be based upon a misconception. It occurs in the following words:—"Now, if at the time of the sale the person who at that time owned the share purchased by the plaintiff had no objection to the sale, that sale gave rise to no cause of action, and nothing which happened afterwards could create one." That observation leaves out of sight that there was ample time still for the original owner of the property, had he lived, to take objection; the period for such objection had not expired, and it seems to me impossible to say that the abstinence from objection for some portion, and a portion only, of that time raised any inference of the abandonment of a claim to pre-empt. It is settled law that a widow holding a life estate, and not holding possession of land in lieu of maintenance, represents the estate in the fullest manner, and such plenary possession seems to me to carry with it the right to pre-empt. I find it difficult to conceive upon what principle applicable to pre-emptive rights, based not on Muhammadan Law but upon the *wajib-ul-arz*, which must be taken to be the basis of the rights of the co-sharers, it would be possible to justify the exclusion of a co-sharer from pre-emption, to whom the widow's life estate has been relinquished, and who herself would have had plenary proprietary rights on the determination of the life estate. There seems to be no doubt that the widow had power to make a good and legal relinquishment. As I have already said, I cannot infer from the fact that the widow took no objection for some brief time before the relinquishment, that there was on her part an abandonment of pre-emptive rights. It would seem upon general principles that the period within which the pre-emptive rights can be exercised is not limited by a devolution of the estate from one co-sharer to another co-sharer. In the case of a

wajib-ul-arz I think the expression excluding such a right must be clear and imperative before I could find that so important an incident of proprietary possession could be lost by such devolution. It is to be regretted that the respondent was not represented in the argument upon this appeal, but I feel no doubt that Mr. *Mujtaba* has brought to bear upon the matter all cases which might help to guide the decision of the Bench. On the whole I am of opinion that the Courts below were right in their decision. I would dismiss the appeal.

BY THE COURT.—The appeal is dismissed, but without costs, as no one appeared for the respondent.

Appeal dismissed.

APPELLATE CRIMINAL.

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 ALI KHAN
 v.
 DAL KUAR.

1897
 November 25.

Before Sir John Edge, Kt., Chief Justice and Mr. Justice Burkitt.

QUEEN-EMPRESS v. MUHAMMAD ISMAIL KHAN.*

*Act No. XLV of 1860 (Indian Penal Code) section 177—False information—
 Police officer recording a false report.*

Held that a Police officer at a police station, who, being as such officer bound to enter all reports brought to him of cognizable or non-cognizable offences in the station diary, refused to enter a report made to him concerning the commission of an offence, and entered instead in the diary a totally different and false report as that which was made to him, had thereby committed the offence punishable under section 177 of the Indian Penal Code.

THE facts of this case are fully stated in the judgment of the Court.

The Government Advocate (Mr. *E. Chamier*), for the Crown.
 Mr. *C. Dillon*, for the respondent.

EDGE, C. J. and BURKITT, J.—This is an appeal brought by the Local Government against an order of the Sessions Judge of Farrukhabad acquitting Muhammad Ismail Khan of offences punishable under sections 177 and 218 of the Indian Penal Code.

On the 23rd of January last, Muhammad Ismail Khan was a head constable stationed at Kaimganj police station. It was

* Criminal Appeal No. 148 of 1897.