

brother. No doubt she intended to incapacitate them for the time that she might fly with her lover. There is no evidence that she knew that datura when administered to a human being might cause death. The same might have been said if she had administered arsenic or nux vomica. It appears to us that we must presume that people of her age have the ordinary knowledge of what the results may be of administering datura. It would be dangerous in the extreme to the public in this country if judges were to hold that it could not be presumed that a woman of twenty years of age in an Indian village was not aware that death might be caused by the administration of datura. If we were to hold that such was the presumption, we fear that poisoning by datura would become more frequent than it is. In our opinion Musammatt Tulsha was properly convicted. It was a case to which the sentence of transportation applied, and that was the proper sentence to pass. As the Sessions Judge truly observes, this woman's act might have resulted in the deaths of three persons. We dismiss this appeal.

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 QUEEN-  
EMPERESS  
v.  
TULSHA.

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 APPELLATE CIVIL.
 

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 1897  
 November 23.
 

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*Before Mr. Justice Blair and Mr. Justice Aikman.*

SULTAN MUHAMMAD KHAN (DEFENDANT) v. SHEO PRASAD AND ANOTHER  
(PLAINTIFFS).\*

*Arbitration—Submission to arbitration—Revocation of submission.*

A submission to arbitration once made cannot be revoked except for good cause. It cannot be revoked at the mere will of one of the parties to it. *Pestonjee Nussurwanjee v. Manockjee & Co.* (1) referred to.

THIS was an application under section 525 of the Code of Civil Procedure to have an award filed in Court and a decree passed in accordance therewith. The award was made ostensibly by one Chandar Sen, the clerk of a pleader, by name Raghurib

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\* Second Appeal No. 453 of 1895 from a decree of A. M. Markham, Esq., District Judge of Meerut, dated the 19th January 1895, confirming a decree of Maulvi Shah Ahmad-ullah Subordinate Judge of Meerut, dated the 16th May 1893.

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SULTAN  
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PRASAD.

Saran, practising at Meerut, but with the advice and assistance of his master. The application was opposed on several grounds, amongst others, on the ground that the objector, having come to know that Raghubir Saran had originally been instructed by the other parties to the reference to file a suit against him in the matter dealt with by the award, had revoked his submission to arbitration. This objection was disallowed by the Court of first instance (Subordinate Judge of Meerut) which passed a decree in accordance with the award. The judgment debtor appealed, urging the same objections as he had urged in the first Court. The lower appellate Court (District Judge of Meerut) dismissed the appeal. The objector thereupon appealed to the High Court.

Pandit *Moti Lal* and *Maulvi Ghulam Muftaba*, for the appellant.

*Munshi Ram Prasad*, for the respondent.

BLAIR, J.—This is the appeal of an unsuccessful party to arbitration proceedings. The only point opened in second appeal is whether the award made was in point of law an award. It seems to me that the findings of fact by the learned Judge do amount to this, that the award is the expression of the mind and the will of the person who was nominated arbitrator. The award is of course signed by him. It might have been possible for objection to be taken to the arbitration proceedings upon the ground of the interference of the arbitrator's master, a pleader, had not such interference taken place with the full assent of the present appellant. In the face of such consent on his part it would not be open to him to revoke his consent to the arbitration proceedings. It would not lie in his mouth to urge as good cause for such revocation anything done by the arbitrator in the course of the proceedings, if the thing done was what he himself had assented to. I think the finding of the Judge that the award is the award of the arbitrator *Chander Sen* means, not only that he signed the award but that it was in the fullest legal sense his award, though the conclusions arrived at may have

been influenced by another person, who, by the consent of the parties, was an assisting party to the arbitration proceedings. I see no reason to disturb the findings of the Judge. I would dismiss the appeal with costs.

AIKMAN, J.—I am of the same opinion. The respondent applied under section 525 of the Code of Civil Procedure to have an award filed in Court. The application was resisted by the appellant here, but the Court made an order against him under the provisions of section 526 of the Code. On appeal the order was confirmed by the District Judge. In this second appeal it is urged that there was no valid award. That is the only ground upon which we could interfere. The reference to arbitration shows that the parties appointed one Chander Sen, the clerk of a pleader named Babu Raghbir Saran, as arbitrator to decide the matters in dispute between them. The award on the face of it purports to have been made by the arbitrator chosen by the parties. It is, however, contended that the person who did really make the award was Chander Sen's master Raghbir Saran. It has been found by the lower appellate Court that Chander Sen was selected by the parties on his master Raghbir Saran promising to help him in every way. That Chander Sen took more than a nominal part in the proceedings is clear from the evidence of Raghbir Saran, a witness whom the Judge describes as absolutely above suspicion. Even if Chander Sen allowed himself to be unduly influenced by Raghbir Saran, that would not under the circumstances of this case amount to misconduct on his part and would not be a matter with which we could deal in appeal.

The learned counsel for the appellant further contended that the award was invalid, inasmuch as his client had revoked the submission to arbitration before the award was pronounced. The learned counsel went so far as to contend that a party who refers a question to arbitration can at his pleasure, and without any cause shown, withdraw from the submission at any time before the award has been given. On this point he referred

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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.*

1897  
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.