

in the absence of definite proof involving the minor son, this would not affect his rights.

The appeal, therefore, must be accepted and the decree of the trial Court restored. The parties to bear their own costs throughout.

A. N. C.

Appeal accepted.

APPELLATE CIVIL

Before Harrison and Addison JJ.

SAT BHARAI AND OTHERS (PLAINTIFFS) Appellants

versus

JAMIAT RAI AND OTHERS (DEFENDANTS)

Respondents.

Civil Appeal No. 316 of 1927.

Civil Procedure Code, Act V of 1908, Schedule II, paragraph 16 (2)—Arbitration—Decree on award—impeached on ground that appellant was not a party to the reference—Appeal or Revision—whether competent.

Held that a limited appeal only, as defined in paragraph 16 of Schedule II, of the Civil Procedure Code, is allowed from the decree following upon an arbitration award; and questions as regards the invalidity of a reference to arbitration from whatever cause, including the failure of a party to sign, cannot form the subject matter of an appeal either to the District Judge or the High Court. Certain points can be agitated before the trial Court and the decision of such as fall within the ambit of paragraph 15 (1) (c) is final.

Guran Ditta and others v. Pokhar Ram and another (1), Balkishan v. Sohan Singh (2), Mussammat Wiran Wali v. Hira Nand (3), and Ralla Ram-Walaiti Ram v. Bansi Lal-Jaggan Nath (4), followed.

(1) (1927) I. L. R. 8 Lah. 693.

(3) (1931) I. L. R. 12 Lah. 408.

(2) (1929) I. L. R. 10 Lah. 871.

(4) (1932) 33 P. L. R. 163.

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Kanhia Lal v. Narain Singh and others (1), and
Mahomed Valli Asmal v. Valli Asmal (2), referred to.

Held also, that the law as regards references, awards and decrees following upon the awards is highly technical. The fact that an appeal—though limited—is allowed in respect of such decrees, closes the door to the matter being re-agitated before the High Court on its revisional side.

Ralla Ram-Walaiti Ram v. Bansi Lal-Jaggan Nath (3), followed.

Second appeal from the decree of Mr. D. Johnstone, District Judge, Sialkot, dated the 9th November, 1926, affirming that of Khan Ahmad Khan, Subordinate Judge, 1st Class, Sialkot, dated the 10th May, 1926, dismissing the suit.

NAND LAL, for Appellants.

MEHR CHAND MAHAJAN and HEM RAJ MAHAJAN,
for Respondents.

The judgment of the Court was delivered by :—

HARRISON J.—Two cross suits were brought by Des Raj against the firm Aya Ram-Devi Dyal and by Aya Ram-Devi Dyal through Mangal Sain against Des Raj. In both cases there was a reference to arbitration and in accordance with the award the suit of the firm Aya Ram-Devi Dayal was dismissed and a decree was passed in favour of Des Raj for Rs. 1,107-15-0.

No objections were raised in the trial Court. The only appeals presented to the District Judge were by three individuals, Buta Ram, Pars Ram and Jiwan Mal, who alleged that they were members of the firm Aya Ram-Devi Dyal, that they had not been individually impleaded and that they were not aware of the

(1) 28 P. R. 1916.

(2) 1924 A. I. R. (Bom.) 924.

(3) (1932) 33 P. L. R. 163:

(1932) I. L. R. 13 Lah. 528.

reference to arbitration. They, therefore, prayed that the decrees passed on the award be set aside.

The appeals were dismissed by the learned District Judge on the finding that they were not competent. He relied on *Kanhia Lal v. Narain Singh* (1) and *Mahomed Valli Asmal v. Valli Asmal* (2).

Two second appeals have been presented in this Court and, in the alternative, in his last ground, Dr. Nand Lal has asked that they be treated as petitions for revision. The point agitated is one, on which there is more than ample authority and especially of this Court, viz. *Guran Ditta v. Pokhar Ram* (3), *Balkishan v. Sohan Singh* (4), *Mussammat Wiran Wali v. Hira Nand* (5) and finally *Ralla Ram-Walaiti Ram v. Bansi Lal-Jaggan Nath* (6), in which the learned Chief Justice has reviewed the position of the case law on the question. We hold that the decision of the District Judge is perfectly correct and that no appeal lay to him and that no appeal lies to us, the point being whether the question of the invalidity of a reference to arbitration from whatever cause, including the failure of a party to sign, can form the subject matter of an appeal to the District Judge or the High Court. The decision is that it cannot.

The question of the alternative prayer for revision remains and this is decided in *Ralla Ram-Walaiti Ram v. Bansi Lal-Jaggan Nath* (6). The whole law of references, awards and decrees following upon the awards is highly technical. A very limited right of appeal is conceded. Certain points can be agitated before the trial Court and the decision of such as fall

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(1) 28 P. R. 1916.

(4) (1929) I. L. R. 10 Lah. 871.

(2) 1924 A. I. R. (Bom.) 324.

(5) (1931) I. L. R. 12 Lah. 408.

(3) (1927) I. L. R. 8 Lah. 693.

(6) (1932) 33 P. L. R. 163, 166.

(1932) I. L. R. 13 Lah. 529.

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within the ambit of paragraph 15 (1) (c) is final. A limited appeal as defined in paragraph 16 of Schedule II is allowed from the decree following upon the award and the fact that such an appeal is allowed closes the door to a revision. It does not follow that because an appeal is not allowed on certain points the door is therefore reopened but rather the reverse. The provision of any appeal at all bars a revision.

The appeals and the applications for revision are dismissed with costs.

N. F. E.

Appeals and Revisions dismissed.

APPELLATE CIVIL.

Before Harrison and Addison JJ.

DEWA SINGH AND ANOTHER (DEFENDANTS)

Appellants

versus

GIAN SINGH AND ANOTHER
 (PLAINTIFFS)

UTTAM SINGH (DEFENDANT)

} Respondents.

Civil Appeal No. 1763 of 1928.

Colonization of Government Lands (Punjab) Act, V of 1912, section 21 (a) and (b): Original grant to husband as Abadkar—widow succeeding him—occupancy rights granted to her—Succession on death of widow—whether to her illegitimate son or the collaterals of her husband.

A grant of Abadkar rights in the Lower Chenab Colony was made in favour of one C.S. in 1899. Two years later, before the acquisition of occupancy rights, he died and was succeeded by his widow G. on 3rd May 1907 and occupancy rights were granted to her in accordance with the rules governing the Colony. She gave birth to an illegitimate daughter in 1908 and to an illegitimate son in 1918 and died