PRIVY COUNCIL.

P.C.*
1908
Feb. 4;
March 18.

HANSRAJ (1)
v.
SUNDAR LAL
AND
HANSRAJ (2)
v.
DWARKA DAS.

(1) [On appeal from the Chief Court of the Punjab.]
(2) [On appeal from the Court of the Agent to the Governor-General in Central India.]

Appeal—Arbitration—Arbitrator—Privy Council—Decree in accordance with award—Civil Procedure Code (Act XIV of 1882) ss. 2, 622—Power of arbitrator—Question of law—Revision—Misconduct of arbitrator alleged—Court of Agent to Governor-General for Central India.

The parties to two suits for partition were the members of a joint Hindu family, who owned property moveable and immoveable and carried on a banking and mercantile business in the Punjab and in the native State of Bhopal.

One suit was brought in 1886 by one of the members of the family in the Court of the Political Agent in Bhopal for partition of the property within the jurisdiction of that Court: and the other was instituted in 1888 by another member of the family in the Court of the District Judge of Delhi for partition of all the property both within and outside British India.

By agreement of parties "all matters in dispute" were eventually referred to an arbitrator, who was to determine "what joint property moveable and immoveable (except the immoveable property outside British India) was to be partitioned between the parties." One of the matters in dispute was the jurisdiction of the Punjab Court as to the moveable property outside British India).

The arbitrator finally submitted his award on 29th June, 1900. Objections to it by the defendants, mostly on the ground of misconduct of the arbitrator, were overruled, and the District Judge of Delhi made a decree in accordance with the award. An appeal and in the alternative a petition for revision under section 622 of the Civil Procedure Code was preferred by the defendants to the Chief Court, who held that the arbitrator must be taken to have decided the question of jurisdiction, and affirmed the decree as not being assailable either

* *Present:*—Lord Macnaghten, Lord Atkinson, Sir Andrew Scoble, and Sir Arthur Wilson.

1908

HANSRAJ v. SUNDAR LAL AND HANSRAJ v. DWARKA DAS.

by appeal or revision, the case being governed by *Ghulam Khan* v. *Muhammad Hassan*(1).

Similar proceedings were taken in the Sehore Court (where the suit was adjourned pending the decision by the Punjab Courts) resulting in the decree in accordance with the award made by the Political Agent in Bhopal being upheld on appeal by the Court of the Agent to the Governor-General for Central India, and special leave being granted to appeal to the Privy Council with liberty to the Secretary of State for India in Council to intervene on the appeal.

Held, by the Judicial Committee, that there was no "misconduct" of the arbitrator within the meaning of that expression in the arbitration sections of the Civil Procedure Code; and, inasmuch as it did not appear that the decree was in excess of, or not in accordance with, the award, there was nothing that could justify the Court in setting aside or remitting it.

Quaere, whether an appeal lies to His Majesty in Council from the Court of the Agent to the Governor-General for Central India.

(1) Appeal (No. 39 of 1905) from a decree (June 27th 1902) of the Chief Court of the Punjab, which affirmed a decree (April 9th, 1901) of the District Judge of Delhi.

(2) Appeal (No. 5 of 1905) from a decree, (November 17th 1902), of the Court of the Agent to the Governor-General in Central India, which affirmed a decree (September 4th 1901) of the Court of the Political Agent at Sehore.

The defendants were the appellants to His Majesty in Council in both appeals.

The parties to these appeals were the members of a Hindu joint family, the descendants of one Saudagar Mal, who left three sons, Jhanda Mal, Beni Pershad and Dwarka Das, respondent No. 1 in appeal 5 and respondent No. 2 in appeal No. 39 of 1905. Jhanda Mal, the plaintiff in the suit, which gave rise to appeal No. 39 of 1905, died leaving a son Gangaram, who also died, leaving a son Sundar Lal, respondent No. 1 in Appeal No. 39 of 1905. Beni Pershad died, leaving three sons, Hansraj, Amar Singh, and Umed Singh, the three appellants, the last of whom is now represented by his widow Mussamat Khemi.

The joint family owned moveable and immoveable property and resided at Pundri in the Karnal District of the Punjab, where they carried on a mercantile business. They also carried on a banking and mercantile business and owned immoveable property at Sehore, a British cantonment within the territories

(1) (1901) I. L. R. 29 Calc. 167; L. R. 29 I. A. 51.

1908

HANSRAJ v. SUNDAR LAL AND HANSRAJ v. DWARKA DAS.

of the Begum of Bhopal, and had branches of the firm at Biora (in the Rajgarh State) Berasia and in Bhopal city.

On 13th July 1886 Dwarka Das instituted, in the Court of the Political Agent, Bhopal, the suit, out of which appeal No. 5 of 1905 arose. The suit was for partition of the joint estate other than that situate in the district of Karnal. The defendants in that suit were Jhanda Mal and Beni Pershad. Without calling on the defendants to file a defence the Political Agent appointed Commissioners to effect a partition. They proceeded to divide some of the property, but the proceedings not being satisfactory to the parties, an agreement was come to on 18th February 1887 by the parties to refer their disputes to an arbitrator. He, however, did not act and a fresh agreement was made on 24th December 1887 appointing four arbitrators.

Before any award was made Jhanda Mal, on the 14th August 1888 instituted a suit in the Court of the District Judge of Karnal for partition of the whole of the joint estate moveable and immoveable situate not only in the Karnal District, but also in Sehore, and the other places before mentioned, making defendants thereto the three sons of Beni Pershad and Dwarka Das.

By order of the Chief Court of the Punjab dated 6th June 1889 the suit was transferred to the Court of the District Judge of Delhi.

Dwarka Das made no objection to the suit, but the other defendants pleaded that it was barred by reason of the pending suit between the same parties in the Court of the Political Agent, Bhopal, and also in consequence of the reference to arbitration.

On 11th October 1889 the District Judge (Mr. Clifford) decided that the Political Agent at Bhopal had no jurisdiction; and on 7th August 1890, having arrived at the conclusion from the defendants' conduct in failing to produce the books of account filed in the Court at Sehore, and from the defendants' absence, that they were trying to delay and defeat the enquiry, he struck out their defence and made an *ex-parte* decree in favour of the plaintiff. This decree was, however, on 23rd April 1892

set aside by the Chief Court of the Punjab, and the case remanded for retrial.

The plaintiff was permitted to amend the plaint, and the defendants re-stated their previous defence, and also pleaded, that the Delhi Court had no jurisdiction to partition properties situate out of British India. Issues were fixed and on the question of jurisdiction the District Judge (Mr. Rennie) on 13th February 1893 held, that he had no jurisdiction in regard to property moveable or immoveable situated outside British India. On an application for review another District Judge (Mr. Harris) on 23rd May 1893 reversed the order of the 13th February 1893 as regarded the moveable property.

On 26th November 1894 the District Judge again made an *ex-parte* decree for the plaintiff, which on 11th May 1896 was again set aside by the Chief Court of the Punjab and the suit remanded for trial by the Divisional Judge of Delhi (Mr. Clifford).

On 28th August 1897 the parties made an agreement to refer the case for settlement to Mr. Clifford as arbitrator, "to decide the matters in dispute in this suit . . . . . and to determine what joint property moveable and immoveable of every description, except the immoveable property outside British India, is to be partitioned between the parties; and he should divide the same among the parties according to their respective shares, and award each party his proper share. It has also been agreed that all the account books will not be brought here (Delhi) from Sehore: but, if the arbitrator thinks proper to examine any of the parties, it will be produced before him."

The Chief Court then re-transferred the case to the Court of the District Judge of Delhi, who on 27th April 1898 made an Order of Reference, which was subsequently found by another District Judge of Delhi to be not quite in terms of the agreement of the parties, and he thereupon on 7th November 1898 made a revised Order of Reference.

The arbitrator made his award on 25th May 1900: but it was remitted by the then District Judge of Delhi for directions as to payment of certain interest, and the date of its final completion was 29th June 1900.

1908

HANSRAJ v. SUNDAR LAL AND HANSRAJ v. DWARKA DAS.

Various objections to the award were taken by petition on 12th June 1900 by the defendants, who complained that, notwithstanding the stipulation in the agreement to refer to arbitration, the arbitrator had made an order for production of the books from Sehore, and on the defendants failing to produce them on 21st May 1900 proceeded *ex-parte* and made his award: that in doing so he drew inferences against the defendants from the absence of the books, and in making his award directed the payment of a large sum of money to the plaintiff as his share, or what was practically a compulsory purchase by the defendants of the business firms outside British India at a fictitious value. The defendants also made other objections as to the misconduct of the arbitrator, and attacked the revised Order of Reference as being illegal.

On 9th April 1901 the District Judge after considering all the objections raised to the award by the defendants, confirmed the award and made a decree in accordance with it.

Thereupon on 14th May 1901, Dwarka Das, the plaintiff in the suit in the Sehore Court (the hearing of which had been, on 27th September 1892, adjourned, until the Punjab case was settled) applied to the Political Agent at Sehore for a decree to be made at Sehore in accordance with the award made by Mr. Clifford, which had then been sent by the arbitrator to the Court of the Political Agent, Sehore, to enable the latter to pass orders under the last clause of section 522 of the Civil Procedure Code.

On 4th September 1901 Mr. Lang, then the Political Agent at Bhopal, made the following order:—

"In the circumstances explained I grant a decree in plaintiff's favour in accordance with the award of the arbitrator, Mr. Clifford, as confirmed by the orders of the District Judge of Delhi, dated 9th April 1901, and I order that the plaintiff be put in possession of the share of the immoveable property at Sehore, which was allotted to him by the arbitrators with the sanction of Colonel Kincaid, Political Agent, 21st September 1886."

Mr. Lang in his decision pointed out that from 1888 the case had been pending before the Punjab Courts, and that the only divergence between the award of the Sehore and Punjab Courts was the distribution of the Sehore house property; and the plantiff Dwarka Das had accepted the original settlement of the

punchayet as to such house property, and that being so, he thought that the mere fact that the defendants had appealed to the Chief Court of the Punjab did not bar his giving judgment.

On 18th November 1901 the defendants appealed against that decision to the Court of the Agent to the Governor-General at Indore, Central India; and on 4th March 1902, an order was made by that Court postponing passing orders on the appeal, until the cognate case pending before the Punjab Chief Court had been decided.

The final order of the Agent to the Governor-General, Central India, was given on 17th November 1902, dealing with the defendant's contention that, neither the arbitrator nor the Punjab Courts had any jurisdiction to deal with the moveable property in dispute not situated in British India and that Mr. Clifford's award was inequitable.

The judgment states as follows:—

"As a matter of fact there is no properly constituted Civil Court in Sehore and the Code of Civil Procedure is not in force there. As a matter of convenience, because it is desirable that some means should exist for the settlement of certain local disputes, it has been frequently held that no one can claim as of right to have his case heard in Sehore, and the Political Agent has often refused to hear cases at all; the Political Agent has for many years exercised a certain amount of jurisdiction, and has taken as his guide in doing so the principal provisions of the Civil Procedure Code. Ordinarily he refers cases to a punchayet, and does not try them himself. Similarly the Agent to the Governor-General has, when in the interests of justice it appeared necessary to do so, exercised a quasi appellate jurisdiction. Neither of these jurisdictions have any definite legal basis, and they exist simply *faute de mieux*. When a competent tribunal in British India tries a case involving moveable property in Sehore, and comes to a finding, which is upheld by a high authority like the Punjab Chief Court, there is not only not the smallest reason why its finding should not be followed in Sehore, notwithstanding proceedings, which may have been already taken, but there is every reason why, in the interests of justice, that finding should be followed. The Political Agent in this case has adopted the finding of the Punjab Court, subject only to certain modifications necessitated by previous agreement between the parties, and I consider that he was clearly right in so doing. I therefore dismiss the appeal with costs."

From that decision the defendants obtained special leave to appeal to His Majesty in Council.

In the other suit the defendants preferred an appeal to the Chief Court of the Punjab from the decree of the District Judge of 9th April 1901 in accordance with the award, and in the

1908

HANSRAJ v. SUNDAR LAL AND HANSRAJ v. DWARKA DAS.

alternative prayed for revision under section 622 of the Civil Procedure Code.

The appeal was heard by a Bench of three Judges (A. H. S. REID, J. A. ANDERSON and A. KENSINGTON), who dismissed it on the ground that the Court had no authority to interfere, either by way of appeal or revision.

REID J. (After stating that the appeal had been referred to a Full Bench by the Chief Judge "for determination whether any action can be taken on the Appellate or Revisional side of this Court having regard to the recent ruling of their Lordships of the Privy Council in *Ghulam Khan* v. *Muhammad Hasan*(1), proceeded.

"The arbitrator finally submitted his award on the 29th June 1900 after one remittal and several extensions of the period fixed for delivery.

"Objections attributing misconduct and a faulty method of arriving at conclusions to the arbitrator, were filed by the defendants-appellants, and were disposed of by the District Judge of Delhi, who passed a decree in accordance with the award. From this decree this appeal has been filed and the appellants have prayed that the memorandum of appeal be treated as an application for revision, if it be held that an appeal does not lie.

"The objections now taken, that the appellants submitted to arbitration under pressure apparently from this Court and from Mr. Clifford, that they 'unwillingly agreed' to the appointment of Mr. Clifford and that the submission to arbitration was bad, were not taken below and cannot, in my opinion, be taken here. The object of taking these objections is to set aside the award, and to allow them to be taken for the first time at this stage would be, as remarked by their Lordships in the case above cited, to defeat the provisions of article 158, Schedule II of the Limitation Act.

"It is therefore unnecessary for the purposes of this appeal, to decide, whether an appeal lies on the ground that there was no submission to arbitration. It is sufficient to hold that the objection cannot be considered in this appeal. Their Lordships' ruling, above cited, is authority for holding that an appeal does not lie on the objections taken below.

"In 74, Punjab Record (Full Bench), 1894, concurred in by their Lordships, Plowden, Senior Judge, said: 'As it is clear that in the appeal before us, it is not alleged that the decree is not in accordance with the award delivered by the arbitrators to the Court, or that the decree is appealed against as being in excess of the award, I think our answer to the question must be that the appeal is prohibited by section 522 of the Code of 1882.

"Much stress has been laid on the objection that the Punjab Courts had not jurisdiction and that the reference to arbitration was therefore void.

(1) (1901) I. L. R. 29 Calc. 167; L. R. 29 I. A. 51.

"The arbitrator was seised of the whole matter in dispute between the parties, except so much as was specifically excluded, and, as remarked by their Lordships of the Privy Council, in the case above cited, the question, whether the suit was competent, was one of the issues in the suit and as such referred to the arbitrators. The fact that the issue as to competence was framed and decided by the Court below, before the final remand, does not affect the arbitrator's competence to decide it, as one of the issues between the parties, and, as remarked by their Lordships, the arbitrator was not bound to give an award on each point.

"Counsel for the appellant cited *Har Narain Singh Chaudhrain* v. *Bhagwant Kuar*(1), as authority for the proposition that an appeal lies from a decree in accordance with an award, delivered after the date fixed. Their Lordships decided that case entirely on the construction of sections 508, 514 and 521 of the Code of Civil Procedure, and held that the words in section 521, 'No award shall be valid, unless made within the time allowed by the Court,' would be rendered inoperative, if section 508 were treated as merely directory and not as merely mandatory and imperative. Their Lordships held that there was no award on which a decree could be based and that they were bound to take judicial notice of the words in the Statute, although the objection had not been raised below.

"This case is clearly distinguishable from that before us, in which there was an award and a decree in accordance with it, and the only objections taken within the period allowed were those above set out. Their Lordships' later ruling is clear, and the Code contains no mandatory provision as to reference similar to that as to the award being made within the period allowed. The appellants could have objected that there had been no reference to arbitration and their failure to do so does not entitle them to appeal on that ground. The order of the 7th November 1898 referring the suit to arbitration provided that the costs should 'abide the result of the finding of the arbitrator.' It has not been shewn that the decree for costs is not in accordance with the award, and I have no hesitation in holding that the appellants were largely responsible for the delay in the proceedings.

"For these reasons the appeal should, in my opinion, be dismissed with costs.

"On the question of revision the ruling of their Lordships in the Privy Council in *Ghulam Khan* v. *Muhammad Hassan* (2) is conclusive. The reasons above stated for holding that the objection on the ground that there was no reference to arbitration, cannot be entertained at this stage in appeal apply equally to the application for revision, and the finding that there was a reference to arbitration, an award and a decree in accordance with that award, to passing which the Court below had no alternative, the application to set aside the award having been refused, precludes revision. The Court below has not exercised a discretion not vested in it by law, or failed to exercise the discretion so vested, or acted in the exercise of its jurisdiction, illegally or with material irregularity. The application for revision therefore fails."

ANDERSON J. "I concur in holding that in this case section 522 of the Civil Procedure Code, prohibits an appeal, and that the District Judge's order renders the award final.

(1) (1891) I. L. R. 13 All. 300; L. R. 18 I. A. 155.

(2) (1901) I. L. R. 29 Calc. 167; L. R. 29 I. A. 51.

1908

HANSRAJ v. SUNDAR LAL AND HANSRAJ v. DWARKA DAS.

"The whole case was referred to the arbitrator. He was, in my opinion, competent to decide the question of jurisdiction, viz., whether the Court had jurisdiction to dispose of a suit affecting moveables situated outside British India and should be regarded as having decided this in the affirmative. The matter had been already considered by the District Judge of Delhi in 1893, whose views did not coincide, but with reference to subsequent proceedings in appeal the point had not been finally decided.

"As regards revision I also agree in holding that no application lies in the present case, the District Judge not having failed to exercise a jurisdiction vested in him by law or having acted illegally or with material irregularity in connection with the case.

"I would, therefore, maintain the decree of the District Judge as it stands, affirming the award, and the order as to costs appears to be suitable."

KENSINGTON J. I concur with the learned Chief Judges. It appears to me that we are unable to arrive at any other conclusion having regard to the terms of the ruling of their Lordships of the Privy Council in the case of *Ghulam Khan* v. *Muhammad Hassan*(1).

"The jurisdiction question is one of the most important points arising in the case, and was argued before us with great force by the learned Counsel for the appellants. It is desirable to make it clear that, though this issue was decided in favour of the plaintiff by the order of Mr. Harris, District Judge of Delhi, dated 23rd May 1893, and though an appeal from the order was dismissed by this Court on the 18th November 1893, there had been no final decision of the point up to the time of submission to arbitration. So far as the merits of the order of 23rd May 1893 were concerned, the ground taken in this Court was that the appeal was premature, and that the point must stand over, till the final decision of the case.

I agree therefore that the jurisdiction question must be treated as a part of the case referred to the arbitrator by the terms of the reference, and that he must be held to have considered it and decided it in favour of the plaintiff, though the matter is not expressly discussed in his award.

On all other points the agreements for the appellants may be summarised by saying that it is urged that the District Judge should have decided in the objections to the award, as raised before him, that the arbitrators misconduct was established under section 522 (*a*) of the Civil Procedure Code. The reply to this is that the District Judge found in fact that there was no misconduct, and with the decree based on this finding we have no authority to interfere either by way of appeal or revision."

The two appeals were heard together.

The special leave to appeal in No. 5 of 1905 was granted subject to the consideration, in the hearing of the appeal, of the question, whether His Majesty in Council should entertain an appeal in the suit on account of the authority, from which the appeal was brought, being one from which such

(1) (1901) I. L. R. 29 Calc. 167; L. R. 29 I. A. 51.

an appeal should not be admitted; and liberty was reserved to the Secretary of State for India in Council to intervene in his official capacity. He accordingly filed a case with regard to the Courts exercising Civil Jurisdiction at Sehore in the Native State of Bhopal, raising the contention that no appeal lay to His Majesty in Council from the decision of the Agent to the Governor-General for Central India, but that point was not argued on the hearing of the appeal.

On these appeals.

L. De Gruyther and *H. Mitra*, for the appellants in both appeals, contended in appeal No. 39 of 1905 that the Civil Procedure Code, section 522, in prohibiting an appeal from a decree in accordance with an award presumed that the award was valid and legal: but where the award was on any ground illegal or invalid an appeal lay from the decree made in accordance with it. Here the Court had no jurisdiction as to the property out of British India. That was so decided by the Court on 13th February 1893, and the review of that decision by another Judge, who reversed it as to the moveable property, was quite incompetent. The Court having no jurisdiction could not refer that question to the arbitrator, who therefore had no power to decide it. The arbitrator also, in spite of the stipulation in the reference as to the production of the books, made an order on the defendants for their production, and, on that order not being complied with, he proceeded with the arbitration *ex-parte*, and made his award, and in doing so drew inferences against the defendants from the absence of the books, and put a fictitious value on the firms outside British India, awarding that the defendants should pay a large sum to the plaintiff for them. This and other procedure of the arbitrator, it was submitted, amounted to misconduct rendering the award assailable by appeal or at any rate by revision. Reference was made to the Civil Procedure Code (Act XIV of 1882) sections 518, 521, 522 and 624: *Mothooranath Tewaree* v. *Brindabun Tewaree*(1), *Kali Prosanno Ghose* v. *Rajani Kant Chatterjee*(2); *Ramesh Chandra Dhar* v. *Karunamoyi Dutt*(3); *Najmuddin Ahmad*

(1) (1870) 14 W. R. 327. (2) (1897) I. L. R. 25 Calc. 141.
(3) (1906) I. L. R. 33 Calc. 498.

1908

HANSRAJ v. SUNDAR LAL AND HANSRAJ v. DWARKA DAS.

v. *Puech*(1) and *Venkayya* v. *Venkatappayar*(2). The Chief Court was in error in holding that the present case was governed by the ruling of the Judicial Committee in *Ghulam Khan* v. *Muhammad Hassan*(3).

As to appeal No. 5 of 1905 it was contended that the award was invalid and could not affect property outside the jurisdiction of the Court, which made the reference to arbitration. It therefore was not operative as regards the property in suit in the Sehore Court. The Political Agent, moreover, had no jurisdiction to make a decree in the suit pending in his Court based on the award without any inquiry or trial; nor could a decree under any circumstances be made based on the award, before it had been finally determined to be a valid award.

Cowell, for the respondents in both appeals, contended in No. 39 of 1905 that the award was final between the parties, and that the District Judge was right in refusing the objections of the appellants and giving judgment in accordance with the award. The case was governed by the decision in the case of *Ghulam Khan* v. *Muhammad Hassan*(3), which had been rightly followed by the Chief Court.

In appeal No. 5 of 1905 it was contended that the appellants were concluded by their agreement to abide by the result of the arbitrators (Mr. Clifford's) decision; and were consequently bound by the award. No objection was ever taken by them to the Bhopal Court's proceedings awaiting the result of the decision of the Punjab Courts, and they cannot now challenge their validity. The decisions of the Bhopal Courts were, moreover, right for the reasons given therein, and should be upheld.

Cohen K. C. (with him *G. E. A. Ross*), for the Secretary of State in Council in appeal No. 5 of 1905, while not conceding that the appeal lay to His Majesty in Council, said that the Political Agent would be guided by the decision of the Punjab Chief Court, if it were affirmed.

De Gruyther in reply.

(1) (1907) I. L. R. 29 All, 584.
(2) (1891) I. L. R. 15 Mad. 348.
(3) (1901) I. L. R. 29 Calc. 167; L. R. 29 I. A. 51.

The judgment of their Lordships was delivered by

LORD MACNAGHTEN. The parties to these two appeals or their predecessors in title have been in litigation now for more than 20 years. The subject of litigation is the property of a joint Hindu family engaged in business, with branches in different parts of the country. Part of the family property is situated in British India; part in Native States. The litigation was begun in 1886, in the Court of the Political Agent at Sehore, in Bhopal, by a suit for partition of so much of the family property as was within his jurisdiction. The next proceeding was a suit for partition, commenced in 1888, in the Court of the District Judge of Karnal, in the Punjab.

In August 1897, after prolonged litigation, the parties to the Punjab suit nominated Mr. S. Clifford, Divisional Judge of Delhi, sole arbitrator, to decide the matters in dispute in the suit. The arbitrator was to determine what joint property, moveable and immoveable, except the immoveable property outside British India, was to be partitioned between the parties. The appointment of Mr. Clifford was duly confirmed by the Court.

The arbitrator finally submitted his award on June 20th 1900.

The appellants filed a great number of objections to the award. These objections were considered and disposed of by the District Judge of Delhi, who passed a decree in accordance with the award.

The objections filed by the appellants were all more or less frivolous. In some the arbitrator was charged with misconduct, but, on the face of the objections, it is perfectly clear that there was no misconduct within the meaning of that expression in the chapter on arbitration in the Civil Procedure Code, nor anything that could justify the Court in setting aside or remitting the award.

From the decree of the District Judge the appellants appealed to the Chief Court of the Punjab.

The Chief Court dismissed the appeal on the ground that the appeal was incompetent, inasmuch as it did not appear that the decree was in excess of, or not in accordance with, the award.

1908

HANSRAJ v. SUNDAR LAL AND HANSRAJ v. DWARKA DAS.

In the meantime the Political Agent in Bhopal had made a decree in accordance with Mr. Clifford's award. There was an appeal to the Court of the Agent to the Governor-General in Central India, but the appeal was dismissed. Special leave to appeal against the order of the Agent to the Governor-General was granted by this Board on the representation that there was or might be an important question as to the jurisdiction of the Court of the Political Agent. And liberty was reserved to the Secretary of State for India in Council to intervene in his official capacity. Mr. Cohen, who appeared for the Secretary of State, not admitting that an appeal would lie to His Majesty in Council from the order of the Agent to the Governor-General in India, intimated that the Court of the Political Agent in Bhopal would be guided by the decision of the Chief Court of the Punjab, if His Majesty thought fit to affirm that decision.

In their Lordships' opinion the decision of the Chief Court is perfectly right. Their Lordships will therefore humbly advise His Majesty that both appeals should be dismissed.

The appellants will pay the costs of the appeals other than the costs of the intervenant.

Appeals dismissed.

Solicitors for the appellants in both appeals: *Rubinstein Myers & Co.*

Solicitors for the respondents in both appeals: *T. L. Wilson & Co.*

Solicitor for the Secretary of State for India in Council, Intervenant in second appeal: *The Solicitor, India Office.*

J. V. W.