
(1869) 05 CAL CK 0058

In the Calcutta High Court

Case No : Regular Appeal No. 107 of 1869

In Re: Maharajah Sir Jai Mangal Sing Bahadur

Date of Decision : 05-05-1869

Acts Referred:

Citation : (1869) 05 CAL CK 0058

Judgement

Norman, J.—It appears to me that there is ground for saying in this case that no award whatever was made by Mr. Sandys and Moulvi Wahidudin, inasmuch as after the Judge had referred back the award to them, u/s 323 of Act VIII of 1859, the document signed by them as their award appears not to have been signed by them sitting together, at one place, and at the same time, but on successive days, namely, the 29th and 31st of January last. It has recently been laid down by this Court, by the Chief Justice, in, Mahomed Akil v. Asadunissa Bibee 9 W.R. 29, that "every judicial act which is done by several Judges ought to be completed in the presence of the whole of them."

2. Now the decisions on which that opinion is founded, are principally English decisions on the subject of awards, and applying that principle to the present case, there are good grounds for saying, that at the time when the judgment was passed by the Judge of Bhagulpore there was not in existence any legal award made by the arbitrators, upon which the Judge of Bhagulpore was competent u/s 325 of Act VIII of 1859 to pass judgment. On this ground at least, without expressing any opinion as to other matters, it seems to me that there is ground for admitting a regular appeal against that judgment.

Jackson, J.

I also think that a regular appeal ought to be allowed to be filed, both on the point as to whether the award was a legal award or not, and also as to the point whether the judgment of the Judge passed within three days of the receipt of the award of the arbitrators, and before the lapse of ten days as directed by law, is a good legal judgment, and should be allowed to stand or not.