

(1925) 05 AHC CK 0004
In the Allahabad High Court

Rudra Prasad Pande and Others

APPELLANT

Vs

Mathura Prasad Pande and Others

RESPONDENT

Date of Decision : 12-05-1925

Acts Referred:

Citation : (1925) 05 AHC CK 0004

Judgement

1. This is an application in revision against an order of the learned Subordinate Judge of Basti superseding an award made in a pending case and directing the suit to proceed on the merits. The parties referred the case to arbitration during the pendency of the suit. The arbitrator made an award. Objections were filed to this award. The learned Subordinate Judge held that those objections were valid objections, and passed an order superseding the award under Ruler 15, Schedule II of the C.P.C. The result is that the suit will proceed as if no reference to arbitration had been made; and it is in fact proceeding. A preliminary objection is taken that no revision lies under these circumstances as the case has not; yet been decided. The Full Bench ruling in *Buddhoo Led v. Mewa Ram* 63 Ind. Cas. 15 : 43 A. 564 : 19 A.L.J. 558. is relied on in support of this argument. We find that the exact point raised in this preliminary objection was recently decided by a Bench of this Court in a reported case-- *Shah Muhammad Fakhruddin Vs. Rahimullah Shah* That also was an order superseding an award in a pending case. The learned Judges held that it was governed by the Pull Bench ruling already referred to, and that at this stage no revision lay. They further pointed out that, if the suit ultimately went against the applicant, it would be open to him to attack the order superseding the arbitration under the provisions of Section 105 of the C.P.C. Following this ruling, with which we agree, we dismissed the present application with costs including in this Court fees on the higher scale.