

Calcutta High Court

Shib Krishna Dawn And Co. vs Satish Chunder Dutt on 27 February, 1911

Equivalent citations: (1911) ILR 38 Cal 522

Author: Harington

Bench: Harington

JUDGMENT Harington, J.

1. This is a petition to extend the time within which an award may be made, and the objection taken is that the Court has no power to grant the petition because the award has already been made, and it is said that the Court cannot exercise the powers under Section 148 when the award has been made. Now the case of Raja Har Narain Singh v. Vhaudhrain Bhagivant Kuar (1891) I.L.R. 13 All. 300, decided by the Privy Council, is an authority for the proposition that the Court has not power to enlarge the time for the making of an award when the time has passed and the award has already been made. On behalf of the petitioner it is argued that Section 148 alters the law laid down in that case because it enables the Court to enlarge the time for the doing of any act prescribed or allowed by the Code, notwithstanding that the period originally fixed has expired. I agree with the view that if the time had expired, and no award had been made, that that section does give the Court power to extend the time for the making of the award, notwithstanding that it had expired at the time of the application; but it appears to me that that section does not enable the Court to extend the time for the doing of a particular act when in truth and in fact the act has already been done. In the present case, on the 8th August, the time was extended, for two months to make the award, and it is stated in the petition that the award was not signed till the 21st November, on, which date according to the affidavit filed by the petitioner it was signed. It may appear hard on the parties that the Court should not have the power the petitioner considers it has, but it was quite open to the petitioner before the award was made to apply for an extension, of time which the Court was able to grant under Section 148. In my opinion I have no power to grant the present application and to enlarge the time within which the award is to be made because of the fact stated on the affidavit that the award has already been made, but has not been made within the time allowed by the Court. For these reasons, the application must be dismissed with costs.