**Virji and others v Sood (No. 2)**

**Division:** High Court of Kenya at Nairobi

**Date of judgment:** 4 August 1972

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**Case Number:** 1536/1970 (111/74)

**Before:** Trevelyan J

**Sourced by:** LawAfrica

*[1] Arbitration – Submission – Parol submission valid.*

**JUDGMENT**

**Trevelyan J:** I see no reason to hold that the Arbitration Act (Cap. 49) means that you cannot have a legally enforceable arbitration without benefit of an “arbitration agreement” as defined in s. 2. It seems to me that what the Act does is to provide a framework for arbitrations which, if kept to, provides built-in conditions and means of enforcement. Mr. Gama Rose put it this way, that the Act was “passed to avoid difficulties and to enforce the award”. This is not quite accurate, over-simplifications often are not, but there is something in what he says. The editor of Russell on the *Law of Arbitration*, 18th Edn., deals with

parol submissions and I think that what he says is just as applicable to this case as it is to such agreements in England. One can also refer to *Bremer Oeltransport v. Drewry*, [1933] 1 K.B. 753 in regard to such submissions.

I find that there was an oral agreement as alleged in para. 3 of the plaint and that it is valid and enforceable in law. I find that the award was published and that it, too, is valid and enforceable in law. It follows, then, that the plaintiffs are entitled to judgment as prayed in their plaint and I award it to them accordingly.

*Order accordingly.*

For the plaintiffs:

*M da Gama Rose* (instructed by *Shapley Barret & Co*, Nairobi)

For the defendant:

*DN Khanna* (instructed by *Khanna & Co*, Nairobi)