

PUNCHIRALA *et al.* v. SUDDAHAMY *et al.**D. C., Kurunégala, 718/499.**Reference to arbitration—Power of Court to extend time after expiry of the time originally fixed—Civil Procedure Code, s. 683.*

Under section 683 of the Civil Procedure Code, a court may enlarge the time on cause shown, when the time originally allowed for the making of the award has expired.

THE facts of this case appear in the judgments of their Lordships
LAWRIE and BROWNE.

Bawa, for defendants appellants.

Blazé, for respondents.

Cur. adv. vult.

1st March, 1895. LAWRIE, A.C.J.—

The order of Court referring the matters in dispute to arbitration was dated 28th February, 1894. It required the arbitrator to make his award within thirty days. On the 24th March, the arbitrator wrote to the Court asking for an extension of time and desiring record of Court be sent to him, for some reason not explained. No notice was taken of this letter till the 2nd April, when the District Judge enlarged the time for filing the award till 30th April. The question to be decided is, Had the judge power to enlarge the time after the time originally fixed had elapsed?

The rule of English law was, that without the consent of parties the Court could not at common law grant any enlargement when the time had lapsed. The authority of the arbitrator was gone, and all the proceedings already taken became ineffectual (*Halden v. Glasscock*, and *Teasdale v. Atkins*: Russell on Arbitrators, page 150). This was remedied in England by the passing of an Act of William the Fourth, and now the Arbitration Act of 1889 enacts that the time for making an award may from time to time be enlarged by order of the Court, whether the time for making the award has expired or not.

Our Code is not so explicit as the English Act of Parliament, but after some little hesitation I come to the conclusion that the 683rd section permits a Court to enlarge the time on cause shown when the time for making the award has expired.

This seems to me the only question of doubt. The other objections to making the award the basis of the decree seem to me untenable. I agree with my brother that the order should be affirmed.

BROWNE, J.—

The award of the arbitrator was filed in Court on the 27th April, and notice thereof was issued. The defendants could then

(section 687, Civil Procedure Code) have applied to set aside the award, or to modify and correct it, or to remit it for reconsideration, if they advanced grounds such as sections 691, 688, and 690 respectively indicate as those respectively appropriate for each form of relief.

Defendants petitioned that the award should be set aside, but did not advance any of the grounds *a*, *b*, or *c* prescribed by section 691 as those upon which alone such a motion could have been granted. The order of the District Judge rejecting the petition should therefore be affirmed.

I agree that the wording of section 683 is large enough to enable the Court to grant a further time to the arbitrator even after the expiry of the original period, when, as here, neither party had on the expiry called for the trial to proceed.

