

1954

*Present : Pulle J. and Swan J.*

VALACHENAI CO-OPERATIVE STORES, Appellant, *and*  
A. VELLACUDDY, Respondent

*S. C. 158—D. C. Batticaloa, 521 (Special)*

*Co-operative Societies Ordinance—Dispute between co-operative society and an officer—  
Arbitrator's award—Cannot be set aside for too technical reason.*

Defendant was the manager of a co-operative society. A dispute between him and the co-operative society was referred to arbitration, but the arbitrator's award itself did not state what office the defendant held under the co-operative society.

*Held*, that the mere failure to describe the defendant in the award as the ex-manager of the co-operative society did not make the award bad on the face of it.

**A**PPPEAL from an order of the District Court, Batticaloa.

*E. R. S. R. Coomaraswamy*, for the plaintiff appellant.

*No appearance* for the defendant respondent.

*Cur. adu vult.*

March 8, 1954. PULLE J.—

The respondent to this appeal was at all material times the manager of a Co-operative Society who are the plaintiffs-appellants. At the request of the Society a dispute between them and the respondent in regard to a deficiency of money was referred under the Co-operative Societies Ordinance to arbitration and an award dated 13th June, 1951, was made by the arbitrator directing him to pay to the Society the sum of Rs. 2,104. 26. This award was filed and made a decree of Court and certain proceedings in execution were thereafter taken. The respondent then appeared and took various objections to the award. The appeal is from an order holding that the award was bad.

I should like to state that the respondent did not appear and answer the claim made against him when summoned by the arbitrator. It was no doubt open to him to have ignored the summons if the arbitrator had assumed a jurisdiction which he did not possess. It has however been established and the Judge specifically finds that the arbitrator had jurisdiction to inquire into this dispute between the appellants and the respondent and that it was competent for him to have made the award in question. When the notice of the bill of costs of the appellant's Proctor was served the respondent did not care to appear and the only point of any substance on which he has succeeded is that in the award itself it is not stated what office the respondent held under the Co-operative Society. In my opinion a mere failure to describe the respondent in the award as the ex-manager of the Co-operative Society did not make the award bad on the face of it. When in all other respects the proceedings before the award and the award itself are good, except for the omission to describe in the award the relationship in which the respondent at one time stood to the appellants, it would be too technical to hold that the award is bad *ex facie*. I would accordingly set aside the order under appeal with costs both here and below which together are fixed at Rs. 157·50.

SWAN J.—I agree.

*Order set aside.*

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