

## PRIVY COUNCIL

Firm Ramchand Manjimal and others

Vs.

Firm Goverdhandas Vishandas Ratanchand and others

P.C.A. Nos. 157, 158, 159, and 161 of 1919

(Viscount Cave, CJ, Lord Moulton, Sir John Edge and Mr. Ameer Ali. JJ)

17.2.1920

### JUDGMENT

#### **Viscount Cave CJ.**

1. These are suits for alleged breaches of certain contracts for the sale of cotton. Each contract contained an arbitration clause, and the defendants in each suit applied under section 19 of the Indian Arbitration Act of 1899 for a stay of proceedings with a view to the issues being referred to arbitration under the clause. The first Court granted a stay, but on appeal the Judicial Commissioner of Sind reversed the orders and refused a stay of proceedings. Applications were made to the Judicial Commissioner for certificates under section 109 (a), or in the alternative under section 109 (c) of the Civil Procedure Code of 1908, with a view to an appeal to this Board. The learned Judges of the Judicial Commissioner's Court took the view that the orders refusing a stay were final orders and accordingly, granted a certificate under section 110 to the effect that the value of the matter in dispute exceeded Rs. 10,000. Thereupon the appeals were brought to His Majesty in Council and the objection is raised that the orders refusing a stay were in fact not final and, accordingly, that the appeals do not lie.

2. Their Lordships have considered the matter and are of opinion that the preliminary objection succeeds. The question as to what is a final order was considered by the Court of Appeal in the case of *Salaman v. Warner*<sup>1</sup> and that decision was followed by the same Court in the case of *Bozsch v. Altricham Urban District Council*<sup>2</sup>. The effect of those and other judgments is that an order is final if it finally disposes of the rights of the parties. The orders now under appeal do not finally dispose of those rights, but leave them to be determined by the Courts in the ordinary way.

3. In their Lordships' view, the orders were not final, and accordingly the appeals cannot proceed, and their Lordships will therefore humbly advise His Majesty that they should be dismissed with costs.

4. Two of the appeals have already been withdrawn, as regards certain of the parties, and therefore the order will not apply to those.

Appeals dismissed.

Cases Referred.

1. [1891] 1 Q.B.734 : 39 W.R.547 : 60 L.J.Q.B.624

2. [1903] I. K. B. 547 : 51 W.R.337 : 67 J. P.397 : 72 L.J.K.B.271 : 1 L.G.R. 639 :  
19 T.L.R.266.