1953

April 16.

KUMBHA MAWJI

v.

UNION OF INDIA.

[MEHR CHAND MAHAJAN, VIVIAN BOSE and JAGANNADHA DAS JJ.]

Indian Arbitration Act (II of 1940), ss. 14 (2), 31 (3) and (4) —Filing of award—Umpire handing over award to parties—Filing in Court by party—Necessity of authorisation of arbitrator or umpire—Award filed in two Courts—Exclusive jurisdiction of Court in which award was filed earlier—Filing award after arbitration is complete—Applicability of s. 31 (4)—"In a reference", meaning of.

The mere filing of award in Court by a party to it without the authority of the arbitrator or umpire is not a sufficient compliance with the terms of s. 14 of the Indian Arbitration Act, 1940, nor can it be inferred from the mere handing over of the original award by the umpire to both the parties that he authorised them to file the same in Court on his behalf; that authority has to be specifically alleged and proved.

The phrase "in a reference" in s. 31, sub-s. (4), of the Indian Arbitration Act, 1940, is comprehensive enough to cover an application first made after the arbitration is completed and a final award made, and the sub-section vests exclusive jurisdiction in the Court in which an application for filing an award has been first made under s. 14 of the Act.

The respondent who was a party to an award filed an application before the Subordinate Judge of Gauhati under s. 14 (2) of the Indian Arbitration Act, on the 10th August, 1949, praying that the umpire may be directed to file the award in Court and upon this notice was issued to the umpire to file the award in Court before 24th August, 1949. As the original award had been handed over to the parties, the umpire sent by post on the 18th August, 1949, a copy of the award signed by him. The Court directed the respondent to file the original award in Court and he did so on the 3rd September, 1949. Meanwhile the appellant's solicitors sent to the Registrar of the Calcutta High Court Original Side, on the 17th August, 1949, the original award for being filed in Court and the award was filed on the 29th August:

Held, that, as the umpire had, on the direction of the Subordinate Judge of Gauhati sent a copy of the award signed by him to the Court on the 18th August, 1949, the earlier filing for the purposes of s. 31(3) of the Arbitration Act was in the Gauhati Court and not in the Calcutta High Court, though the original award was filed by the respondent in the Gauhati Court only after the appellant's solicitor had sent the award for filing to the

Calcutta High Court. In the circumstances the Gauhati Court alone had jurisdiction to proceed with the hearing of the dispute under s. 31 of the Act.

Judgment of the Calcutta High Court affirmed.

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 133 and 134 of 1952.

Appeals from the Judgment and Decree dated the 23rd February, 1951, of the High Court of Judicature at Calcutta (Harries C.J. and Bannerjee J.) in Appeal No. 44 of 1950 arising out of the Judgment and Decree dated the 16th day of December, 1949, of the said High Court (Sinha J.) in its Ordinary Original Civil Jurisdiction in Award Case No. 208 of 1949.

N. C. Chatterjee (*Amiya Kumar Mukherjea*, with him) for the appellant.

C. K. Daphtary, Solicitor-General for India (*G. N. Joshi* and *Jindra Lal*, with him) for the respondent.

1953. April 16. The Judgment of the Court was delivered by

JAGANNADHA DAS J.—On the 28th of January, 1948, the appellant, Khumba Mawji, entered into an agreement with the respondent, the Dominion of India (as it then was) to manufacture and supply, to the Bengal Assam Railway, stone boulders and ballast from Chutiapara quarry. The agreement was entered into at Calcutta, though the work was to be carried out in Assam. It was a term of the agreement that if any differences arose between the parties, they were to be referred to the arbitration of two persons, one to be nominated by each side, and that if the arbitrators were not able to agree, the matter was to be decided by an umpire to be nominated by both the arbitrators. Differences having, in fact, arisen, the dispute was referred to two arbitrators and on their disagreement the matter went up to an umpire, one Mr. P. C. Chowdhury. The umpire made two awards on or about the 20th of July, 1949, in favour of the appellant. By one of them he directed a sum of Rs. 3,67,000 to be paid by the respondent to the

1953

Kumbha Mawji v. Union of India.

Jagannadha Das J.

appellant on or before the 19th of August, 1949, with interest thereafter at 6 per cent per annum in case of default. By the other he directed a sum of Rs. 83,000 to be similarly paid by the respondent to the appellant. He is said to have made over each of the two awards, in original, to each of the parties. On the 10th of August, 1949, the respondent filed an application under section 14, sub-section (2), of the Indian Arbitration Act, 1940, before the court of the Subordinate Judge of Gauhati in Assam praying that the umpire, Mr. Chowdhury, might be directed to file both the awards in court so that the petitioner might get an opportunity for filing objections thereto. On this application notice was issued to the umpire to file the awards into that court before the 24th of August 1949. The umpire sent a letter dated 18th August, 1949, to the Subordinate Judge, which is as follows with copies of the awards :—

" Dear Sir,

With reference to your notice in money suit No. 63 of 1949 requiring me to submit the awards made by me in the above mentioned dispute on 20th July, 1949, I beg to submit that the two awards were made and signed by me in the presence of the parties and handed over to me on 20th July, 1949. As directed by you *I am sending herewith copies of the same signed by me.* On the back of each of these copies occurs the receipt of the parties to the awards."

On receipt thereof, the Subordinate Judge made an order on 24th August, 1949, in the following terms :—

"Notice on the umpire served. Seen his report forwarding copies of the award of which the originals are said to have been made over to the parties. Applicant to file his copy on 3rd September, 1949".

On the 3rd of September, 1949, the respondent filed the awards which were handed over to it by the umpire, and the matter was being proceeded with by issue of further notices and filing of objections in the court of the Subordinate Judge, Gauhati.

Meanwhile on the 17th of August 1949, *i.e.*, a week after the respondent made its first application in the Gauhati court, the appellant's solicitors, Messrs. Mukherjee and Biswas, sent a letter to the Registrar of the High Court, Original Side, as follows :

"On behalf of our client Mr. Kumbha Mowjee we beg to enclose herewith two original Awards duly stamped and both dated 20th July, 1949, for the respective sums of Rs. 3,67,000 and Rs. 83,000 duly signed by the Umpire Mr. P. C. Chaudhury for filing.

Please therefore direct the office to file the said two Awards and to issue notices in respect thereof expeditiously."

After some correspondence between the Deputy Registrar and the solicitors calling for some further papers, the Deputy Registrar informed the solicitors by his letter dated the 29th August, 1949, that the award had been filed and asked the solicitors to take out from the court and serve on the parties concerned the statutory notice fixing a date for judgment upon the said award by the Commercial Judge of the court. Notices were thereupon issued to both the parties in the following terms :

"To

1. Kumbha Mawji.

2. The Dominion of India represented by the Assam Railway.

Take notice that the *Award of the Umpire* appointed in the matter of the above Arbitration Agreement *had been filed on the 29th day of August, 1949,* and that the Court hearing the commercial causes will proceed to pronounce judgment on such award on 7th day of November, 1949.

Dated the 29th day of August, 1949."

This notice was served on the respondent on the 2nd of September, 1949. Thus in respect of these awards, proceedings were initiated purporting to be under section 14 (2) of the Indian Arbitration Act simultaneously both in the court of the Subordinate Judge

1953

Kumbha Mawji
v.
Union of India.

Jagannadha Das J.

of Gauhati in Assam as well as on the Original Side of the High Court at Calcutta.

The appellant in answer to the notice issued by the Gauhati court on 3rd September, 1949, appeared before that court on 28th October, 1949, and obtained adjournments from time to time until 10th December, 1949. On that date the Gauhati court rejected his prayer for any further adjournment and fixed 20th January, 1950, for an *ex parte* hearing. Meanwhile, the respondent after receiving the notice issued to him by the Calcutta High Court filed, on the 24th of November, 1949, an affidavit dated the 15th of November, 1949, stating his objections to the jurisdiction of the Calcutta Court and to the validity of the awards. On the same date a counter affidavit thereto dated the 19th of November, 1949, was filed on behalf of the appellant. On these affidavits the matter was taken up for consideration by the Commercial Judge of the Calcutta High Court on the 16th of December, 1949. The learned Judge overruled the objections of the respondent, and passed judgment on the two awards. On appeal therefrom by the respondent to the Division Bench, the learned Judges reversed the judgment of the single Judge. They held that there had been no proper application under section 14(2) of the Indian Arbitration Act, before the High Court of Calcutta, and that consequently that Court had no jurisdiction to deal with the matter.

Before the learned single Judge of the High Court the main objection taken and set out in paragraph 14 of the respondent's affidavit dated the 15th of November 1949 was as follows:

"I submit further that inasmuch as the application of the Dominion of India under section 14(2) of the Indian Arbitration Act was made as aforesaid to the said Court at Gauhati before the award was filed in this Hon'ble Court by Kumbha Mawji, the Court at Gauhati alone has jurisdiction."

Under section 31(1) of the Indian Arbitration Act an award may be filed in any court having jurisdiction in the matter to which the reference relates. The

reference in this case arose out of a contract which, as already stated, was entered into at Calcutta and had to be performed in Assam. Thus the Gauhati court as well as the Calcutta High Court admittedly had jurisdiction over the subject-matter of the reference. The point taken, however, on behalf of the respondent in their objections was that, having regard to section 31, sub-section (4) of the Act and to the fact that an application under section 14, sub-section (2) for a direction to the umpire to file the award was made to the Gauhati court as early as the 10th August, that court was seized of the matter from that date, and that therefore any application under section 14 on a later date to another court, though otherwise competent, was barred under section 31, sub-section (4). This was the main question that was seriously pressed before the learned single Judge. But the learned Judge was of the opinion that section 31 (4) related only to applications made during the pendency of a reference to arbitration and not to applications made subsequent to the making of an award. He thought that in respect of applications for filing an award the exclusive jurisdiction was determined with reference to the question as to which was the competent court in which the award was, in fact, first filed under section 14, sub-section (2) (as distinct from when the application for the filing of the award was first presented). In this view, the learned Judge held on the facts that the award must be taken to have been filed earlier in the Calcutta court and not in the Gauhati court. He accordingly held that the Calcutta High Court had exclusive jurisdiction having regard to section 31 (3), and hence proceeded to judgment on the award, the respondent not having filed any objections before him in time.

On appeal, the learned Judges considered it unnecessary for them to dispose of the case on either of the above grounds considered by the single Judge, and held that on the facts it was quite clear that there had been no due filing of the award at all in the Calcutta court under section 14 (2) inasmuch as the awards

1953

Kumbha Mawji v. Union of India.

Jagannadha Das J.

which were claimed to have been duly filed were, in fact, not filed by the umpire; nor was it shown that they were filed under his authority. On this limited ground they reversed the decision of the learned single Judge and vacated the judgment given in favour of the appellant on the basis of the two awards. Hence these two appeals to us.

On the facts stated above three questions arise for consideration:

(1) Whether the appellant had the authority of the umpire to file the awards on his behalf into court in terms of section 14 (2) of the Arbitration Act;

(2) Whether in view of sub-section (3) of section 31 of the Act it can be said that the awards were filed in the Calcutta High Court earlier than in the Gauhati court; and

(3) Whether the scope of section 31, sub-section (4) of the Act is limited to applications under the Act during the pendency of the arbitration proceedings only.

As regards the first question, section 14, sub-section (2) provides that,

"the arbitrators or umpire shall, at the request of any party to the arbitration agreement or any person claiming under such party or if so directed by the court and upon payment of the fees and charges due in respect of the arbitration and award and of the costs and charges of filing the award *cause* the award or *a signed copy of it*, together with any depositions or documents which may have been taken and proved before them, *to be filed in court*, and the court shall thereupon give notice to the parties of the filing of the award."

This section clearly implies that where the award or a signed copy thereof is in fact filed into court by a party he should have the authority of the umpire for doing so. This is, at any rate, the assumption on which the question has been dealt with in the High Court, and it has not been contended before us that the filing of the award into court by a party himself

though without the authority of the umpire to do so on his behalf, is sufficient compliance with the terms of this section. The learned Judges of the High Court were of the opinion that the authority of the umpire empowering the appellant to file the original awards into court on his behalf has not been made out on the evidence in the case. The argument stressed before us is that in para 7 of the affidavit dated the 19th of November, 1949, filed on behalf of the appellant in the High Court on the 24th of November, 1949, it is stated that "On or about the 21st July, 1949, the said Umpire made over the said original award to this deponent for filing." It is urged that this is an averment of the requisite authority from the umpire, and it is pointed out that this assertion has not been contradicted on the other side by any reply affidavit. It is contended therefore that the filing was valid. The learned Judges in coming to the contrary conclusion relied on two facts, namely, that the umpire in his letter to the Gauhati court dated 18th August, 1949, when sending copies of the awards in compliance with the notice issued to him by that court merely stated that he handed over the awards to both the parties, but did not say that he authorised any of them to file the same into court on his behalf. The learned Judges were also of the opinion that the umpire as a person of commonsense could not be supposed to have authorised both the parties to file the awards into court on his behalf. We are inclined to agree with this reasoning. Where, as in this case, the originals are said to have been handed over to both the parties, it cannot be assumed that the mere handing over of the awards to the parties necessarily implies the authority of the umpire to file the same into court on his behalf. That authority has to be specifically alleged and proved. In the present case the statement in the affidavit relied on by learned counsel before us is no more than an assertion that the umpire handed over the original awards to the appellant for filing, but there is no allegation that they were so handed over to him for filing on behalf of the umpire.

1953

Kumbha Mavji
v.
Union of India.

Jagannadha Das J.

The umpire may not have been aware that the awards should be filed into court only by himself or under his authority.

Learned counsel for the appellant urged that the question of the authorisation of the umpire for the filing of the award by the appellant was one that was not raised at all as an objection before the learned single Judge of the High Court, and that such an objection should not have been taken notice of for the first time on appeal. It is no doubt true that neither the affidavit filed on behalf of the respondent nor the judgment of the learned single Judge gives any indication of this question having been raised in the first court. Indeed, the learned Judges on appeal recognise it when they say towards the concluding portion of their judgment as follows:

"It does not appear that the point on which the appeal succeeds was argued in the court below. But it is a point of law and *no objection was taken before us by the respondent to the appellant taking the point before us*".

Though it is somewhat difficult to see how the question raised can be said to be a pure question of law, it is quite clear from the above extract that no objection was taken by the respondent to the point being raised. It has not been suggested before us that this statement in the judgment was in any way erroneous. Appellant's counsel argued that if the learned Judges on appeal felt inclined to dispose of the case on this point alone, they should have called upon the umpire to clarify whether or not the appellant had his authority, or given an opportunity for production of his affidavit in support of the authority. Learned counsel presses that an opportunity should now be allowed. It does not appear, however that it is either necessary or desirable at this stage and after this lapse of time to allow this matter to go back for that purpose. Because, apart from the question of mere want of proof of authority, it is clear that in a case of this kind and on the facts above stated, it was

incumbent on the appellant to allege categorically that, in terms of sub-section (2) of section 4, he had the requisite authority of the umpire. That allegation is wanting not only in the affidavit dated the 19th of November, 1949, but what is more important is that when the awards were filed into court on the 17th of August, 1949, by the solicitors on behalf of the appellant with a letter which might be treated as the initial application to the court, there is not a word to suggest that the awards were being filed under the authority of the umpire. The letter contained only a bald statement that the two original awards duly signed by the umpire were enclosed therewith for filing, with a request to direct the office to file the two awards and to issue notices in respect thereof expeditiously. In those circumstances, there has been clearly no sufficient compliance with the terms of section 14, sub-section (2) of the Act to constitute the filing of the awards by the appellant's solicitors the filing thereof by the umpire.

As regards the second question, namely, as to whether with reference to the terms of section 31, sub-section (3) the awards should be held to have been filed earlier in the Calcutta court or in the Gauhati court, the view taken by the learned Commercial Judge was that the filing in the Calcutta court must be taken to have been earlier. For the purpose of the consideration of this question it may be assumed that that filing was under the authority of the umpire. The learned Judge was of the opinion that the filing of the awards in the Gauhati court must be taken to have been made on the 3rd September when in pursuance of the prior order of the Subordinate Judge dated 24th August, 1949, the present respondent filed into court the original awards with him. In coming to this conclusion the learned Judge ignored the fact that on 18th August, 1949, the umpire in response to the notice previously issued to him forwarded to the court signed copies of the awards and that the same were in that court on or before 24th August, 1949. This seems, in terms, to

1953

Kumbha Mawji v. Union of India.

Jagannadha Das J.

be sufficient compliance with the provisions of section 14, sub-section (2) which only requires that on the directions of the court the original award or the copy thereof should be caused by the umpire to be filed into it. The learned Judge stated that he was not aware whether the copies sent to the Subordinate Judge were signed copies or not. The learned Judge failed unfortunately to notice that the umpire himself in his letter dated 18th August, 1949, stated clearly as follows:

"As directed by you I am sending herewith *copies* of the same (awards) *signed by me*".

The learned Judge was also inclined to think that the mere forwarding of the awards does not amount to the filing of them. Here again, the learned Judge has overlooked that under section 14, sub-section (2) the actual filing by the umpire is not essential, but that it is sufficient if the umpire *causes* the awards to be filed. It is not suggested that sending by post in compliance with the notice is not such "causing".

It appears to us therefore clear that the filing of the awards in the Gauhati court must be taken to be on the 24th of August, 1949. So far as the Calcutta court is concerned, though no doubt the awards were put into that court by the appellant's solicitors on the 17th August, 1949, it appears clearly from the notice issued by the Registrar dated the 30th of August, 1949, that the awards were treated as filed only on the 29th day of August, 1949. Paragraphs 8 and 9 of the respondent's affidavit filed in the Calcutta court on 24th of November, 1949, contain categorical assertions that so far as the Gauhati court is concerned, the copies of the awards were filed by the umpire on the 24th of August, 1949, while as regards the Calcutta High Court the awards were filed on the 29th of August, 1949. These assertions have not been contradicted on behalf of the appellant in the counter-affidavit filed on the same day. From these facts, it is clear that the earlier filing for the purposes of section 31(3) is in the Gauhati court and not in the Calcutta court as held by the learned single Judge under an erroneous impression as to the facts. We may as well mention at this stage that

it was not suggested before us that for legal purposes the filing of the awards in the Calcutta High Court (on the assumption of existence of authority in the appellant for such filing on behalf of the umpire) is not the 29th of August, 1949, but only the 10th of August when the letter was sent by the solicitors to the Registrar enclosing the awards. We mention this because it appears from the judgment of the Division Bench of the Calcutta High Court that some such point was raised there, but before us the contrary was assumed. We are accordingly of the opinion that even if the authority of the umpire for the filing of the award into court on his behalf by the appellant is to be taken for granted, it was in the Gauhati court that the awards must be taken to have been filed earlier. On this ground, therefore, we are inclined to hold that the Gauhati court alone has jurisdiction under section 31 (3) of the Act.

The third question which remains for consideration is whether sub-section (4) of section 31 of the Indian Arbitration Act of 1940 applies only where the first application under the Act was made during the course of pendency of a reference to arbitration or also to a case like the present one where such first application is made after the completion of the arbitration and on the making of an award. As already stated, the learned Judges on appeal did not deal with this question. The trial Judge, however, considered the matter, and held that the above provision related only to an application made during the pendency of a reference to arbitration. In the view of the learned Judge,

"In order to attract sub-section (4) an application must have been made during the pendency of the reference, and if such an application had been made, all other applications arising out of that reference (whether made in the reference or not) must be made in that court".

Apparently, the learned Judge construed the phrase "in a reference" in section 31, sub-section (4), as meaning "in the course of a reference", and that is also the

1953

Kumbha Mawji v. Union of India.

Jagannadha Das J.

contention before us of the counsel for the appellant, which requires closer examination.

Section 31 of the Indian Arbitration Act of 1940 is in the following terms:

"(1) Subject to the provisions of this Act, an award may be filed in any Court having jurisdiction in the matter to which the reference relates.

(2) Notwithstanding anything contained in any other law for the time being in force and save as otherwise provided in this Act, all questions regarding the validity, effect or existence of an award or an arbitration agreement between the parties to the agreement or persons claiming under them shall be decided by the Court in which the award under the agreement has been, or may be, filed, and by no other Court.

(3) All applications regarding the conduct of arbitration proceedings or otherwise arising out of such proceedings shall be made to the Court where the award has been, or may be, filed, and to no other Court.

(4) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, where in any reference an application under the Act has been made in a Court competent to entertain it, that Court alone shall have jurisdiction over the arbitration proceedings and all subsequent applications arising out of that reference and the arbitration proceedings shall be made in that Court and in no other Court".

Sub-section (1) relates to the question as to where a completed award has to be filed, and prescribes the local jurisdiction for that purpose. Sub-section (2) deals with the ambit of the exercise of that jurisdiction, and declares it to be exclusive by saying that "all questions regarding the validity, effect or existence of an award or arbitration agreement between the parties to the agreement or persons claiming under them shall be decided by the Court in which the award under the agreement has been, or may be, filed and by no other Court". Sub-section (3) is intended to provide

that all applications regarding the conduct of arbitration proceedings or otherwise arising out of such proceedings are to be made only in one court, and lays on the concerned party the obligation to do so. Then comes sub-section (4), the object of which apparently is to go further than sub-section (3), that is, not merely casting on the party concerned an obligation to file all applications in one court but vesting exclusive jurisdiction for such applications in the court in which the first application has been already made.

Thus it will be seen on a comprehensive view of section 31 that while the first sub-section determines the jurisdiction of the court in which an award can be filed, sub-sections (2), (3) and (4) are intended to make that jurisdiction effective in three different ways, (1) by vesting in one court the authority to deal with all questions regarding the validity, effect or existence of an award or an arbitration agreement, (2) by casting on the persons concerned the obligation to file all applications regarding the conduct of arbitration proceedings or otherwise arising out of such proceedings in one court, and (3) by vesting exclusive jurisdiction in the court in which the first application relating to the matter is filed. The context, therefore, of sub-section (4) would seem to indicate that the sub-section was not meant to be confined to applications made during the pendency of an arbitration. The necessity for clothing a single court with effective and exclusive jurisdiction, and to bring about by the combined operation of these three provisions the avoidance of conflict and scramble is equally essential whether the question arises during the pendency of the arbitration or after the arbitration is completed or before the arbitration is commenced. There is no conceivable reason why the Legislature should have intended to confine the operation of sub-section (4) only to applications made during the pendency of an arbitration, if as is contended, the phrase "in any reference" is to be taken as meaning "in the course of a reference".

It may be noticed that the Arbitration Act deals with arbitrations of three different categories: (1) arbitration

1953

Kumbha Mawji v. *Union of India.*

Jagannadha Das J.

without intervention of the court, dealt with in sections 3 to 19 comprising Chapter II; (2) arbitration with the intervention of a court where there is no suit pending provided in section 20 which is a separate Chapter III; and (3) arbitration in suits dealt with in sections 21 to 25 comprising Chapter IV. The jurisdiction as regards the latter two classes of arbitrations in respect of certain matters is provided in the very provisions relating to those two classes of arbitrations, that is, section 20, sub-section (1) and section 21. Sub-section (1) of section 31 appears to refer only to the first class. It may, therefore, have been, plausibly, suggested that sub-sections (2), (3) and (4) refer only to this class. But no such position was taken up before us. Indeed, having regard to the wide language employed in these sub-sections it has been assumed that sub-sections (2) and (3) cover all three classes in all their stages. If so, is there any sufficient reason to think that sub-section (4) was meant to have a very restricted operation? On the view of this sub-section suggested for the appellant, not only would an application made after the award was pronounced be excluded from sub-section (4) but also an application made before the commencement of the arbitration, *i.e.*, for the filing of an agreement of reference and for a direction thereupon. It must be remembered that section 31 is one of the group of sections headed "General" which by virtue of section 26 are applicable to all arbitrations. Unless therefore the wording in sub-section (4) of section 31 is so compelling as to confine the scope thereof to applications during the pendency of an arbitration, such a limited construction must be rejected.

As already stated, the entire basis of the limited construction is the meaning of the phrase "*in* any reference" used in sub-section (4) as meaning "in the course of any reference". But such a connotation thereof is not in any ordinary sense compelling. The preposition "in" is used in various contexts and is capable of conveying various shades of meaning. In the Oxford English Dictionary one of the shades of meaning of this preposition is

" Expressing reference or relation to something; in reference or regard to; in the case of, in the matter, affair, or province of.

Used especially with the sphere or department in relation or reference to which an attribute or quality is predicated ".

In the context of section 31, sub-section (4), it is reasonable to think that the phrase "in any reference" means " in the matter of a reference ". The word "reference" having been defined in the Act as "reference to arbitration", the phrase "in a reference" would mean "in the matter of a reference to arbitration". The phrase "in a reference" is, therefore, comprehensive enough to cover also an application first made after the arbitration is completed and a final award is made, and in our opinion that is the correct construction thereof in the context. We are, therefore, of the opinion that section 31 (4) would vest exclusive jurisdiction in the court in which an application for the filing of an award has been first made under section 14 of the Act.

It is undisputed that the application by the respondent Union of India was made before the Gauhati court on the 10th August, 1949, and the earliest move by the appellant before the Calcutta court was on the 17th August, 1949. On these facts and on the view of the interpretation of section 31, sub-section (4), which we are inclined to take, it is clear that the Gauhati court only has the jurisdiction and not the Calcutta High Court as regards the present dispute.

In the result, the two appeals must be dismissed with costs.

Appeals dismissed.

Agent for the appellant : *Sukumar Ghose.*

Agent for the respondent : *G. H. Rajadhyaksha.*