attempts to support the decision of the learned Sessions Judge by quoting S. 36 of the Police Act. The learned Sessions Judge has not quoted that section but has referred only to S. 7 of the Police Act. It appears to us that the learned Sessions Judge has entirely misunderstood the matter, S. 7 of the Police Act does not deal with the punishment of offences made punishable by this Act. S. 7 deals merely with the powers of superior Police Officers in regard to the control of their subordinate officers. Under that section, the controlling authorities are empowered to punish not offences but acts of negligence. S. 36 on the other hand, deals with offences which might be punishable either under Act V of 1861 or some other Act, such as the Indian Penal Code. For example, an individual convicted under S. 34 of Act V of 1861 for furious riding, is secured from further prosecution in respect of the same offence under S. 279 of the Indian Penal Code.

For these reasons, we accept the appeal and setting aside the order of the learned Sessions Judge direct that he should re-hear the appeal and decide it on the merits.

R.M./R.K.

Appeal accepted.

A. I. R. 1915 Lahore 351

JOHNSTONE, C. J. AND RATTIGAN, J.

Raja and *others* — Plaintiffs—Appellants.

v.

Allah Ditta and *others*—Defendants—Respondents.

Second Appeal No. 508 of 1913, decided on 14th June, 1915, from the Decree of Divnl. Judge, Jhelum, dated 12th March, 1912.

Custom (Punjab)—Alienation by father—Question of valid necessity may be one of law or of customary law or one of fact according to the circumstances of each case—Civil P. C. (5 of 1908), S. 100.

The question of valid necessity may be one of law, or of customary law or one of fact according to the peculiar circumstances of each case.

Where, therefore, in a suit by the minor sons for a declaration that the sale of ancestral property by their father shall not affect their reversionary right after his death, it appeared that the alienor was really in need of money for household necessities and that he took the money in good faith for ordinary purposes:

Held, that the question of valid necessity was one of fact in the case and its necessity being proved, the plaintiffs' suit must fail.

[P. 351, C. 2.]

Kunwar Narain—for Appellants.

Muhammad Iqbal—for Respondents.

Judgment.—The case is the familiar one of minor sons contesting the alienation of ancestral property by their living father, who, of course, is a *pro forma* defendant. The first Court held that the suit was within time, that Rs. 300 of the Rs. 600 purchase-money was not for "necessity," and that on the death of the alienor plaintiffs would be entitled to recover the land sold from the alienees on payment of Rs. 300. The lower Appellate Court, however, took the view that there were indications that in consequence of famine and so forth, alienor probably really did require the cash item (Rs. 350), that the alienation was old, made nearly twelve years before suit, and that it was unreasonable to expect from vendees any precise proof of "necessity."

Plaintiffs filed a revision here, but by a special order of the learned Judge in Chambers, who held that perhaps appeal lay but certainly revision did not, the revision was turned into an appeal, and was referred to a Division Bench specially for a ruling on the question, whether "valid necessity" is a point of law only or a point of Customary Law. We may note that no certificate for second appeal has been put in. We find ourselves unable to give a plain answer to this question. It seems to us that according to the peculiar circumstances of each case the question may be one of Customary Law or one of law or one of fact. In *Santa Singh* v. *Waryam Singh* (1), for instance, there is a case in which the question was one of law merely, while in the present case it strikes us as being one of fact, *viz.*, was alienor really in need of Rs. 350 for household necessities? The parties are in no wise at variance as to any principle of law or of Customary Law.

On the merits we entirely agree with the learned Divisional Judge. In our opinion there is on the record, if the rulings of this Court as to *quantum* of proof required in cases where suit has been long delayed be followed, ample proof that the alienor took the money in good faith for ordinary purposes and not

(1) A. I. R. (1914) Lah. 247=24 I. C. 361=19 P. R. 1915.

at all for any of the purposes denounced in such rulings as *Devi Ditta Singh* v. *Saudagar Singh* (2).

In short, we think there is no force in the appeal and we dismiss it with costs.

R.M./R.K.

Appeal dismissed.

(2) (1900) 65 P. R. 1900.

A. I. R. 1915 Lahore 352

SHAH DIN, J.

Sahib Rai—Defendant—Petitioner.

v.

Chait Ram and *others*—Plaintiffs and another—Defendants—Opposite parties.

Civil Revn. Petn. No. 124 of 1914, decided on 4th January, 1915, from the Decree of Dist. Judge, Multan, dated 28th November, 1913.

(a) Limitation Act (9 of 1908), Sch. I, Art. 158—Period of ten days—Computation of—It is to be computed from day on which parties receive notice that award has been submitted to.

Under Article 158 of the first Sch. to Act, IX of 1908 the period of ten days is to be computed from the day on which the parties receive notice that the award has been submitted to, and not from the date on which it is actually received by, the Court.

Therefore, where award is submitted to the Court on 30th September but the parties come to know of its submission on 11th October, the petition of objections to the award presented on 20th October is within time. 24 P. R. 1880, diss. from. [P. 352, C. 2.]

(b) Civil P C. (5 of 1908), S. 115—Sch II, Para. 10—Award—Objections rejected without adequate inquiry—Order is liable to be set aside.

An order rejecting objections to an award without adequate inquiry into them, apparently under the impression that these were not raised within time, is liable to be set aside on revision. [P. 352, C. 2.]

Nand Lal—for Petitioner.

Gokal Chand Narang—for Opposite Parties.

Order.—(*March 14th, 1914.*)—Although the award was filed in Court by the arbitrator on the 30th September, 1913, no intimation of this was given to the parties before the 11th October, on which date the case was called on for hearing. On the 11th October, ten days were allowed to the parties to file objections, and the defendants accordingly filed their objections on the 20th October. The objections were thus filed within time, and the Court was not right in rejecting them summarily as barred by limitation. There has been no proper adjudiction on those objections. Notice.

Judgment.—My order, dated the 14th March, 1914, admitting this case to a hearing will be read as part of this judgment. It is to be observed that on the 30th September, 1913, when the arbitrator filed his award in Court, no notice of the filing of the award was given by the Court to the parties, as required by paragraph 10 of the second Schedule to the Civil Procedure Code the case was fixed for hearing on the 11th October, 1913, and on that date the usual ten days were allowed to the parties to file objections to the award. The Counsel for the respondents contends that under Article 158 of the first Schedule to the Limitation Act the petitioner was bound to file his objections to the award within ten days from the date when the award was submitted to the Court, *i. e.*, within ten days from the 30th September, 1913, even though no notice of the filing of the award had been given to him by the Court. Counsel cites *Mehta Kashi Ram* v. *Dadabhoy* (1) in support of his contention. I cannot accept this view. Reading paragraph 10 of the second Schedule to the Civil Procedure Code with Article 158 of the first Sechdule to the Limitation Act, I am of opinion that the District Judge was right in allowing to the parties 10 days' time from the 11th October for filing objections to the award, because no notice had been given to them of the filing of the award before the 11th October. This being the case, the petition of objections was not barred by limitation.

No doubt the District Judge, after stating at length the principal objections raised by the petitioner to the award, says that his own witnesses disprove the pleas raised in the objections, most of which were legally inadmissible, but this is not a proper decision of the questions raised in the petition of objections. It seems to me that but for the fact that the District Judge held that the objections were barred by limitation, he would have taken greater pains in the disposal of those objections, and as I have held that the plea of bar by limitation cannot hold good, it follows that the District Judge must now adjudicate upon the objections in question in a proper manner.

(1) (1880) 124 P. R. 1880.