
(1917) 02 AHC CK 0019
In the Allahabad High Court

Baji Lal and Others

APPELLANT

Vs

Nawal Singh

RESPONDENT

Date of Decision : 15-02-1917

Acts Referred:

Citation : AIR 1917 All 1216(1) : (1917) ILR (All) 388

Hon'ble Judges : Walsh, J;Piggott, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Piggott and Walsh, JJ.—This is a respondent's application under Order XLI, Rule 21, of the Code of Civil Procedure, for the re-hearing of an appeal which was decided ex parte by a Bench of this Court on the 29th of June last. The affidavit on which the application is based is to the effect that counsel had been duly instructed on behalf of the respondent by one Nathu Ram, to whom the respondent had entrusted the business of looking after the appeal on his behalf and seeing that it was duly prosecuted. Subsequently Nathu Ram withdrew the instructions, and counsel was thus unable to appear. We think that the applicant is really seeking relief on the ground of misconduct or neglect of duty on the part of his own agent. He has no doubt a remedy against the agent. We think we should be setting up a bad precedent if we endeavoured to relieve him from the consequences of the act of his agent. The case is very similar to that of Har Prasad v. Abdul Rahman Weekly Notes 1905 p. 44, in which this Court upheld an order of the lower court refusing to restore an appeal under analogous circumstances. We reject this application with costs. Counsel's fee for the appellant, opposite party, may be valued at twenty rupees.