
(1933) 01 CAL CK 0017
In the Calcutta High Court

Forman Mandal and Others

APPELLANT

Vs

Basanta Kumari Debya

RESPONDENT

Date of Decision : 20-01-1933

Acts Referred:

Citation : AIR 1933 Cal 727

Hon'ble Judges : Guha, J

Bench : Division Bench

Judgement

Guha, J.—This rule is directed against an order passed by the learned District Judge of Jessore, setting aside an order passed by the learned Munsif, second Court at Jessore, granting an application for review of judgment. The Munsif had by his order dated 2nd July 1932 granted an application for review of judgment; on appeal the order of the Munsif was reversed by the Court of appeal below. The trend of the recent decisions in this Court and as also of those of the other High Courts in India is that the provisions of Order 43, Rule 1(w), Civil P. C, are to be read subject to the provisions contained in Order 47, Rule 7, that an order granting a review could be appealed from only on one or other of the grounds specified in Order 47, Rule 7; and it has expressly been laid down by this Court in the case of Surjya Narain Chowdhury Vs. Kunja Behary Mal and Kailas Mandal, , that although Order 43, Rule 1(w) allows an appeal against an order granting a review, that clause must be read with Rule 7, Order 47 by which the grounds on which an order granting a review can be set aside on appeal are limited. I find no reason to differ from the above view of the law applicable to the present case. It must accordingly be held that the Court of appeal below had no jurisdiction to set aside the order of the Munsif" granting the review.

2. The Rule is made absolute, the order of the learned District Judge passed on appeal in this case is set aside, and the order of the Munsif, dated 2nd July 1932, allowing the application for review, is restored. I make no order as to costs in this Rule.

3. The records are to be returned as soon as possible.