

(1942) 01 AHC CK 0002

In the Allahabad High Court

Case No : Application in F.A.F.O. No. 28 of 1941

Ram Lal Sahu and others

APPELLANT

Vs

Dina Nath

RESPONDENT

Date of Decision : 30-01-1942

Acts Referred:

Letters Patent Act, 1865 — Section 10

Citation : (1942) 01 AHC CK 0002

Hon'ble Judges : Verma, J

Bench : Single Bench

Advocate : Dr. N.P. Asthana s, for the Appellant;

Final Decision : Dismissed

Judgement

Verma, J.—This is an application praying that permission to file an appeal under the Letters Patent against my judgment in F.A.F.O. No. 28 of 1941 delivered on the 2nd of December 1941 be granted. It is stated in the affidavit filed in support of the application that although a mention was made by counsel for the Respondent "as to permission being granted for Letters Patent appeal", no leave was asked for immediately after the judgment had been delivered, as required by the Rules of the Court, as

there was a misapprehension in the mind of the counsel that permission for filing the Letters Patent appeal was not necessary in the first-appeal from order.

2. The application was filed on the 20th of January 1942. Notice of this application was served on the counsel for the other side and he has appeared today to oppose this application. Rule 7 of Chapter III of the Rules of the Court runs thus:

An application for leave to appeal u/s 10 of the Letters Patent Appeal against an appellate judgment of a Single Judge of this Court shall be made in writing or orally to the Judge deciding the appeal immediately after the judgment is delivered. No other application for such leave to appeal shall be entertained....

3. The language of the Rule is perfectly, clear and leaves no discretion to the Judge. The learned Advocate General has argued I that the cause mentioned in the affidavit, I namely, that Learned Counsel were labouring under a misapprehension as to the necessity for making an application for leave to appeal, is sufficient. On the language of the Rule, however, no "question of the sufficiency or insufficiency of the cause which prevented counsel from making an application, or even of the existence or non-existence of a cause, can arise. The last sentence of the first paragraph of the Rule] quoted above clearly means, "no application for such leave to appeal other than one made immediately after the judgment is delivered shall be entertained." That being so, I have no jurisdiction to entertain this application.

4. The application is accordingly dismissed.