
(1924) 04 PAT CK 0028
In the Patna High Court

Rameswar Mahton

APPELLANT

Vs

Lala Dwarka Prasad

RESPONDENT

Date of Decision : 01-04-1924

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 20 Rule 3, 115, 151

Citation : AIR 1925 Patna 36

Hon'ble Judges : Ross, J; Das, J

Bench : Full Bench

Judgement

Das, J.—It may be conceded that there is no jurisdiction in the Court to set aside its own decree u/s 151 of the Code. It ought to be remembered that the Court has no inherent jurisdiction to do that which is prohibited by the Code, and Order 20, Rule 3, of the Code provides that:

A judgment, when once signed, shall not afterwards be altered or added to, save as provided by Section 152 or on review.

2. In my opinion there was no power in the Court to alter or add to the judgment in the exercise of its inherent jurisdiction.

3. But the question now arises whether we ought to set aside the order passed by the Court. The application before us is u/s 115 of the Code and it is well established that the Court is not bound to interfere u/s 115 except in aid of justice. What happened was this. The applicants were the tenants and the opposite party was the landlord. It was objected that the name of the landlord had not been registered in the Land Registration Department, and the Court on that ground dismissed the suit. While the judgment was actually being written the landlord produced documents showing that his name had actually been registered in the Land Registration Department. The learned Judge says that these documents were produced before he signed his judgment; but as a matter of fact his attention was drawn to it after he signed the judgment. There is no question that, had the opposite party applied for review, the Court would have

granted review without the slightest hesitation. All that can now be said is that instead of applying under Order 47, Rule 1, as the landlord should have done he applied u/s 151 of the Code.

4. In our opinion we ought not to exercise our power u/s 115 in this case.

5. The application must be refused, but, in the circumstances, without costs.

6. This order will govern analogous Civil Revision Cases Nos. 479, 480, 481, 482 and 483 of 1923.

Ross, J.

7. I agree.