

Balchand Vs. Narain Dass and ors.

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Court : Allahabad

Decided On : Sep-26-1938

Reported in : AIR1939All96

Appellant : Balchand

Respondent : Narain Dass and ors.

Judgement :

ORDER

Mulla, J.

1. This is an application in revision under Section 25, Small Cause Courts Act. The applicant here was the plaintiff in the suit before the Small Cause Court. He claimed to recover a certain amount on the basis of certain transactions of loan and certain advances of grain. The transactions had taken place between the plaintiff and Mauji, the predecessor-in-interest of the opposite parties. The opposite parties resisted the suit on several grounds, one of them being that certain amounts which were shown in the plaintiff's account books as having been advanced to Mauji had not really been so advanced because Mauji had not put his signature underneath those entries. Subsequently this objection was withdrawn and on 13th February 1937 the learned Small Cause Court Judge passed a decree in favour of the plaintiff-applicant for a sum of Rupees 154-2-0. The opposite parties had pleaded that they were agriculturists, and that plea had been

admitted by the plaintiff. Accounting was therefore done upon that basis, and the Court found that the plaintiff was entitled to a sum of Rs. 154-2-0 and passed a decree accordingly. Six days after that decree, on 19th February 1937, the opposite parties made an application purporting to be one under Section 152, Civil P.C. in which they prayed that the decree passed by the Court should be amended in the light of certain accounts which they submitted at that stage. It appears that the Court had directed the opposite parties to prepare an account, but they had omitted to do so and the Court had proceeded to pass a decree in favour of the plaintiff. The learned Small Cause Court Judge has allowed that application made by the opposite parties and has amended the decree by reducing the amount from Rs. 154.2-0 to Rs. 69-13-0. The lower Court purports to have done all this in the exercise of its inherent power under Section 152, Civil P.C. Hence this application in revision. The main ground urged in support of this application is that after having passed a decree in the suit, the lower Court had no jurisdiction to amend or alter it in the manner in which it has done so purporting to act in the exercise of its inherent jurisdiction under Section 152, Civil P.C. I think this contention is sound and ought to prevail. Section 152 runs as follows:

Clerical or arithmetical mistakes in judgments, decrees or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court either on its own motion or on the application of any of the parties.

2. The simple question for consideration in this case is whether the lower Court has in altering the decree only corrected some clerical or arithmetical mistake or some error arising therein from any accidental slip or omission. In view of the facts stated above, the answer is quite clearly in negative. The alteration made by the Court in the decree is obviously the result of taking into consideration a document which was produced by the opposite parties after the decree had been passed. The lower Court had no jurisdiction to receive fresh documentary evidence at that stage. What the lower Court has done is not merely to correct a clerical or arithmetical mistake or an accidental slip or omission, but to alter the decree in a substantial manner in view of the accounts produced by the opposite parties at a stage when they were not entitled to do so. Such procedure cannot, in my opinion, be justified by reference to the inherent powers of a Court under Section

152, Civil P.C. The result therefore is that I allow this application in revision and setting aside the order passed by the Court below restore the decree dated 13th February 1937 in its original form. The applicant shall have his costs in this Court.

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