

Kallan Vs. Nanhe

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SooperKanoon Citation : sooperkanoon.com/461210

Court : Allahabad

Decided On : May-23-1930

Reported in : AIR1930All701

Appellant : Kallan

Respondent : Nanhe

Judgement :

Sen, J.

1. This Court in its exercise the revisional jurisdiction is reluctant to interfere with an order passed by the Court below upon a technical ground of either an error of law or an irregularity of procedure. The revisional jurisdiction has to be exercised with a view to prevent a miscarriage of justice. The order passed by the Court below is preeminently just. The Court had beyond all doubt an inherent jurisdiction to upset its former order striking out the defence and passing an ex parte decree against the defendant. The mere fact-that the defendant had a right of appeal under Order 43, Rule 1, Clause (f), Civil P. C, from the order striking off his defence does not preclude the Court below from exercising its inherent jurisdiction in setting aside an ex parte decree which had been wrongly or illegally passed. The present application for revision does not satisfy the conditions laid down in Section 115, Civil P.C. I accordingly dismiss this application with costs including in this Court fees on the higher scale.

