

Tota Ram Vs. Panna Lal

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Court : Allahabad

Decided On : Apr-09-1924

Reported in : (1924)ILR46All631; 79Ind.Cas.997

Judge : Daniels, J.

Appellant : Tota Ram

Respondent : Panna Lal

Judgement :

Daniels, J.

1. This is an application for revision or an order passed by the court below restoring an application for cancellation of a sale. The application was originally dismissed for default. The application to restore was not made within the time allowed by law. The court below has, however, allowed it in the exercise of its inherent powers under Section 151 of the Code. It is established by ample authority that Section 151 is not intended to override the express provisions of law. In other words, where the law provides a period of limitation for a particular class of application, the court cannot ignore the provisions of the law of limitation by appealing to Section 151 of the Code. That section is intended for cases for which the strict letter of the law provides no remedy. This was the view taken by this Court in a very recent case, *Joshi Shib Prakash v. Jhinguria* (1923) I.L.R. 46 All. 144. There are also decisions of the Patna, Lahore, Bombay and Madras High

Courts to the same effect: Ajodhya Mahton v. Musammat Phul Kuer (1922) I.L.R. 1 Patna, 277, Bissa Mal v. Kesar Singh (1920) I.L.R. 1 Lahore, 363, Bhausing v. Chaganiram Hurchand (1918) I.L.R. 42 Bom. 363, Ramchandra Govind Thomare v. Jayanta (1920) I.L.R. 45 Bom. 503 (507), R.C. Krishnasamy Naidu v. R. Chengalraya Naidu (1923) I.L.R. 47 Mad. 171. There are observations to the same effect in the judgment of their Lordships of the Privy Council in Sabitri Thakurain v. Savi (1921) I.L.R. 48 Calc. 481 (491).

2. I accordingly set aside the order of the court below. The application for cancellation will stand dismissed with costs in both courts.

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