

Bachan Vs. Raghunath and ors.

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Court : Allahabad

Decided On : Jul-27-1925

Reported in : AIR1926All304; 92Ind.Cas.264

Judge : Kanhaiya Lal, J.

Appellant : Bachan

Respondent :

1. This is an application in revision for the discharge of an order for the amendment of a decree passed by the trial Court on the 9th May 1925. The trial Court observes that there was a mistake in the decree which was not in accordance with the judgment and it has directed that mistake to be rectified. It is argued here that the trial Court had ceased to have any jurisdiction to amend this decree or to rectify it after an appeal had been filed from that decree in the Court of the District Judge. But till the District Judge hears the appeal and decides it, the decree of the trial Court remains in force and it can be rectified or amended by the Court which passed it. It is only when the appeal has been decided and a decree has been passed in appeal confirming, amending reversing it that the appellate decree operates to supersede the decree of the trial Court, and it is only then that the jurisdiction of the trial Court to interfere with the decree so superseded ceases. It is immaterial what has happened since the order of the trial Court of the 9th May 1925 now sought to be revised was passed. The order as passed on that date was correct and the trial Court had jurisdiction to pass it. The decision in Asma Bibi v. Ahmed Husain (1908) 30 All 290 referred to by the learned Counsel for the

applicant does not apply because in that case the amendment was made after the appeal was decided. The application is, therefore, rejected. The stay order passed will be withdrawn.

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