

Deo Narain Singh Vs. Karoo Singh

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SooperKanoon Citation : sooperkanoon.com/865104

Court : Kolkata

Decided On : Aug-15-1883

Reported in : (1884)ILR10Cal80

Judge : Mitter and ;Tottenham, JJ.

Appellant : Deo Narain Singh

Respondent : Karoo Singh

Judgement :

Mitter, J.

1. The question for decision in this case is, whether an application for review of judgment upon a ground other than those mentioned in Section 624 of the Civil Procedure Code, if presented to the Judge who delivered it, and who thereupon directs notice to be given to the opposite party, may be heard and disposed of by his successor.

2. The learned pleader for the appellant contends that this question should be answered in the negative, and relies upon the provisions of Section 624 as construed in *Puncham v. Jhinguri* I.L.R. 4 All. 278. The decision cited fully supports him. But with deference to the opinion of the learned Judges who decided that case we are unable to concur in the view taken by them. The learned Judges have pointed out the inconvenience and hardship which may ensue in

certain cases if their interpretation of the section be adopted, but they nevertheless felt themselves bound to adopt it as they could not get over the plain language of the section. It appears to us that if the word 'made' be literally construed, it would not ordinarily include a hearing and determination of the application for review. We quite agree with the learned Judges that if the word 'made' be construed to include a mere physical presenting of the application, it would be reducing the provision of the section to an absurd and useless one. But Section 626 provides that the Court shall reject the application if it appear to it that there is not sufficient ground for review. Therefore, before the notice provided in Clause (A) of this section is directed to be issued, the Judge who delivered the judgment is required to consider judicially the merits of the application, and unless he is satisfied that there are prima facie grounds for review, he would not direct notice to issue.

3. The position of Section 624 lends some support to the contention that the word 'made' does not include the hearing and the determination of the application for review. If it did, it would have been naturally placed after Section 626, which provides for the hearing and determination of an application for review.

4. We are, therefore, of opinion that the question raised before us should be answered in the affirmative.

5. The appeal is dismissed with costs.