

Case No:- CEC-D/ED/12/17

Title :- Jitender Singh v/s Lal Ram chander

28/03/2023

For claimt ~~Sh.~~ Jitender Singh in put
for seprment. Sh. Ravis n Kaur ~~gaj~~ put

Canal for fet'thos was in hurry to attend
a matter to only agreed that in terms
of app. dt 24/2/23 permission to withdraw
the claim with liberty be given.

and had left the proceedings.
 on the other side counsel for resp.
 argued on the app. in question. Counsel
 further submitted that they have no
 objection to allow the app. to the
 extent of withdrawing but liberty at
 this stage cannot be given as it
 ground that counsel for claimant not ready
 any justified ground as to why liberty
 be given. merely they have mentioned
 in para 3 that claimants are being
 achieved to do so. but it is quite strange
 if counsel for the claimant is proceeding
 only as liberty then entire aim of the
 case would be ruined. Further counsel
 of resp. filed judgment of appeal
 cont:-

- ① Vrejichman v/s Anasuya CA 861/2017.
 referred for order 23 rule 1 C3 CPC para
 9 of the judgment. wherein Hon'ble court
 has held that in regard to liberty
 sufficient ground should be given
 as how the right is being taken
 has been taken place. This claim
 has been filed by Sh. B. S. Singh

alleged affiant who is brother of
 decedent who does not get much
 up of the decedent as per sec 22 of
 the Act. from inhibition of case

still today on the stage of w/o
 all the proceedings completely only
 then suddenly the claimant is another.

and placed as application which
 cannot be considered for any circumstance,
 further led out for sep also
 referred for.

- ② CA 3287 / 2000 / K.S. Bhooopathy v/s Kokila
 wherein the Hon'ble Court held that
 person in order 23 is an executor
 to carry on case. Therefore as principal
 cannot be treated as for with an
 affidavit filed by him. If claimant
 failed to satisfy the court
 pertaining to the circumstance &
 justifying the ground to defect
 in original case and in that
 character the court held
 that description recorded by the
 court with caution & circumspection

After having read and in detail
 in the light of judgments & reply
 of the application for withdrawal
 I do not find any justified ground
 for seeing liberty which appears to
 me that error / default has been
 took place in ignorance of claim
 further I am also in considered view
 that knowingly applicant is
 well known that he is the brother
 of claimant & as the other side
 the court of claimant was well
 aware that the applicant does not fall
 under the definition of claimant.
 In view of above I allow the application
 of the claimant to the extent of
 withdrawal but regarding to liberty
 do not find it a fit case as reason
 disallowed above. So that report / finding
 to the extent of liberty is not granted
 finally the app at 24/2/23
 is rejected to the extent of liberty
 and allowed to the extent of withdrawal

File raised R.R. Copy to be
 uploaded on website, orders be
 given clasti to the parties

For
 signature

Jitender Singh

