

still an appeal will not lie against the order passed by the Court on an application under Section 151, alleging that the said order is in effect an order for “restitution”. A revision only is to be filed against the order passed by the Court on such petition filed under Section 151 CPC, to the High Court under Section 115 CPC. It is settled principle in interpretation of law, that, while interpreting a law, the Court should not ignore any thing

that is contained in it and likewise, should not add something more into it. So while interpreting the words “rejection of a plaint” in Section 2(2) it should not mean to include rejection of the plaint under Order 7 Rule 11 CPC, also “but it should be understood to mean “rejection of a plaint otherwise than under Order 7 Rule 11 or rejection of a plaint by the Court itself suo motu or rejection of plaint simplicitor”.

WHY DID MOUNTBATTEN CHOOSE 15TH AUGUST, 1947?

By

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After the freedom struggle for Independence, the British Parliament swiftly implemented the decision to partition India. A bill (which became the Indian Independence Act, 1947) was introduced in the House of Commons on 4th July 1947 and was passed on 15th July. The next day, it was passed by the House of Lords. There were no amendments. It received the Royal Assent on 18th July. That Act created the two independent Dominions of India and Pakistan. When the plan for partition was being evolved in India and was to be discussed in London, Azad had an interview with Mountbatten on 14th May 1947, which Azad had recorded in his autobiography. He records that he pleaded with Mountbatten not to bury the Cabinet Mission Plan and to defer the solution of the political problem for a year or two. Thus the partition has become inevitable and was accepted by the Congress and Muslim League, was there any justification for the haste and hurry with which the date of transfer of power was brought forward from June 1948 first to October 1947 and then to 15th August 1947. A recent book reports Mountbatten as having told its authors.

“The date I chose came out of the blue, I chose it in reply to a question. I was determined to show I was master of the whole event. When they asked: had we set a date, I knew it had to be soon. I hadn’t worked it out exactly then—I thought it had it be about August or September and I then went to the 15th of August why? Because it was the second anniversary of Japan’s surrender”

That 15th August 1947 was the second anniversary of the surrender of Japan may have had a personal and historic association for Mountbatten, as he had been the Supreme Commander for South-East Asian in the War against Japan.

Mountbatten obtained a statement from the leaders of the Congress and the Muslim League appealing for a peaceful transfer of power, and expressing the determination of the Government of the two Dominions to secure such peaceful transfer, as also their determination to accept the Boundary Commission Award. It was Gandhi’s finest hour. His courage, his healing touch and tireless efforts succeeded.