

Court No. - 4

Case :- CIVIL MISC REVIEW APPLICATION No. - 297 of 2023

Applicant :- Om Prakash

Opposite Party :- Parshuram Tiwari

Counsel for Applicant :- Ram Sajiwan Mishra,Rajneesh Shukla

Counsel for Opposite Party :- Arun Kumar Tiwari

Hon'ble Prakash Padia,J.

1. The present review application has been filed to recall the order dated 25.05.2023 passed by this Court on Civil Misc. Restoration Application No.161756 of 2014.

2. It is argued by counsel for the appellant that though at the time the order was passed on the recall application filed by the appellant namely Parashu Ram Tiwari on 25.05.2023, the substitution application filed on behalf of legal heirs of the sole defendant appellant was pending but this fact was not placed before this Court. It is further argued that the order was passed in the aforesaid appeal against the dead person, which is not permissible in law.

3. On the other hand it is argued by counsel appearing on behalf of defendant appellant/respondent in that review application that the fact regarding pendency of the recall application was duly mentioned by him in his substitution application.

5. Heard learned counsel for the parties and perused the record.

6. From perusal of the record it is clear that at the time when the order was passed on restoration application namely 25.05.2023 the sole defendant appellant was already dead. The order was passed on the restoration application against the dead person.

7. In this view of the matter, the order dated 25.05.2023 passed on the restoration application No.161756 of 2014 is recalled.

8. The review application is allowed.

Order Date :- 7.11.2023

Pramod Tripathi