

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.260 of 2014

In

First Appeal No. 165 of 2012

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Ganesh Prasad & Ors

.... Petitioner/s

Versus

Amresh Prasad & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ambuj Nayan Chaubey

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR

SAHOO

ORAL ORDER

8 10-02-2015 **1.** Heard the learned counsel, Mr. Kamal Nayan Chaubey,
on behalf of the petitioner.

2. This review application has been filed by the appellants
for review of the order dated 25.7.2014 passed by me in First
Appeal No.165 of 2012 while disposing of the interlocutory
application No.7091 of 2012, i.e. injunction application, filed by
the appellant under Order 39 Rule 1 & 2 of the Code of Civil
Procedure.

3. The learned counsel for the appellant submitted that one
of the coparcener have sold the property to the purchaser
defendants and according to the Supreme Court, the coparcener
has no right to sell a particular property. The learned counsel
further submitted that the purchaser has no right to come in

exclusive possession of the purchased property when the trial Court has recorded a finding that the property is coparcener property and there is unity of title and possession between the parties. The learned counsel in support of his contention relied upon **2009 (4) PLJR 225 (Gajara Vishnu Gosavi Vs. Prakash Nanasahed Kamble)**.

4. From perusal of the order under review, it appears that the same argument was advanced at the time of hearing of the injunction application.

5. The Hon'ble Supreme Court in the case of **Kamlesh Verma Vs. Mayawati AIR 2013 SC 3301** has held that **'the jurisdiction and scope of review is not that of an appeal and it can be entertained only if there is an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review.'** In the present case, except same argument advanced by the appellant at the time of hearing of the injunction application, no error apparent on the face of the record has been pointed out. In my opinion, therefore, it is not a case for review. Thus, this review application has got no

merit. Accordingly, it is dismissed.

6. The learned counsel submitted that the date of hearing of the First Appeal may be fixed. It appears that the First Appeal is of the year 2012. From perusal of the list, it appears that now the First Appeals of the year 1977, 1980, 1983 etc. are listed, therefore, there is no urgency in hearing this First Appeal which arises out of partition suit. Accordingly, this prayer is also rejected at present.

(Mungeshwar Sahoo, J)

Sanjeev/-

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