

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.74 of 2013

In

SA 16 of 2004

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Dinesh Singh & Ors.

.... Petitioner/s

Versus

Brij Bihari Prasad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR

SAHOO

ORAL ORDER

9 25-07-2016 Heard the learned senior counsel, Mr. Dhruv Narain for the petitioners and the learned counsel, Mr. Parth Sarthy for the opposite party.

This review application has been filed by the petitioners for review of the judgment of this Court dated 05.12.2012 passed in Second Appeal No.16 of 2004 whereby the Second Appeal was dismissed at the time of hearing of the Second Appeal under Order 41 Rule 11 C.P.C.

The learned senior counsel, Mr. Dhruv Narain for the petitioners submitted that there is misappreciation of evidence by the trial court as well as by the appellate court in connection with the finding of title in favour of the plaintiff. While deciding this Second Appeal, this question was not taken into consideration.

On the other hand, the learned counsel, Mr. Parth Sarthy

for the opposite party submitted that this point was never argued before the second appellate court.

Perused the judgment passed by this Court in Second Appeal. It appears that this point which is being raised before this Court in this review application was never the substantial question of law raised before the second appellate court at the time of hearing of the Second Appeal under Order 41 Rule 11 C.P.C.

In view of the above fact, this point which is being raised before this Court in review application, the judgment passed by this Court cannot be reviewed as this Court is not sitting in appellate jurisdiction.

Thus, I find no merit in this review application and accordingly, this review application is dismissed.

(Mungeshwar Sahoo, J)

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