

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.252 of 2015

In

First Appeal No. 310 of 1985

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Abbas Mian @ Lal Mian & Anr

.... Petitioner/s

Versus

Naina Khatoon @ Pappi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR

SAHOO

ORAL ORDER

4 31-03-2016

Heard the learned counsel, Mr. Suraj Narayan Yadav

for the petitioners.

It appears that while dismissing the petition for Special Leave to Appeal No.19944 of 2015, Hon'ble Supreme Court granted liberty to the petitioner to file review application. The Hon'ble Supreme Court nowhere in the said direction held that review application is maintainable after disposal of the appeal before the Supreme Court.

Section 114 of the C.P.C. clearly bars review application if the form of appeal has been availed by the petitioner. In the present case, against the judgment and decree of this Court in First Appeal, the petitioners filed Special Leave Petition to Appeal before the Supreme Court which was withdrawn and at that time, the petitioners obtained the liberty to

move this review application. Now, therefore, the judgment of this Court has already been merged in the order passed by the Supreme Court.

In view of the judgment of this Court, in **2011(3) PLJR 728(Nitya Nand Singh v. M/S Aditya Co-operative Housing Society Ltd.)**, since the judgment and decree of this Court has been merged in the order of the Hon’ble Supreme Court and since there is clear bar under Section 114 of the C.P.C., this review application itself is not maintainable and accordingly, this review application is dismissed.

(Mungeshwar Sahoo, J)

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