

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.269 of 2015

In
SA 195 of 2013

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1. Chandeshwar Prasad, son of Late Ratan Saw, resident of Village Nepura, P.S. Silaw, District Nalanda, presently residing at Bhainsasur under Bihar Sharif Nagar Palika (Nagar Parishad), P.S Murarpur Laheri, District Nalanda 803101.

.... Petitioner/s

Versus

1. Rajia Devi, wife of Late Shivnandan Prasad.
2. Sunil Kumar.
3. Rakesh Kumar.
4. Rajesh Kumar All sons of late Shivnandan Prasad
5. Babi Kumari, daughter of Late Shiv Nandan Prasad, All resident of Mohalla Bhainsasur under Bihar Sharif Nagar Palika (Nagar Parishad) P.S. Murarpur Laheri, District Nalanda.

.... 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 V. NATH
ORAL JUDGMENT

6 10-08-2016 Heard Mr. R.K.P. Singh, learned counsel appearing on behalf of the petitioner.

Learned counsel for the opposite party is also present

This application has been filed seeking review of the judgment passed in S.A. No. 195 of 2013 whereby the second appeal was dismissed holding that there was no substantial

question of law arising for consideration in the appeal.

Mr. Singh learned counsel for the petitioner has submitted that the petitioner is the plaintiff in the eviction suit against Shiv Nandan Prasad. It has been further pointed that the petitioner has purchased the suit property from the wife of defendant-Shiv Nandan Prasad but the said wife filed another suit questioning the alienation said to have been done in favour of the petitioner. It has been further submitted that the suit filed by the wife of the defendant was dismissed and thereafter the title appeal against the said suit and decree was also dismissed and the second appeal has been filed which is pending consideration before this court. It has been further pointed out that after the death of Shiv Nandan Prasad the defendant in the suit, his wife, has been substituted in his place. It has therefore, been prayed that an observation be granted by this Court that the petitioner shall be at liberty to seek recovery of possession by filing independent suit and in support of this contention the learned counsel has submitted that in the two decisions of the Apex Court as referred in the judgment under review, the same direction has been issued by the Apex court.

After considering the submissions and perusal of the judgment, it is manifest that all the submissions on behalf of the

appellant in that case has been considered by this court and it is not the case of the petitioner that any of the submissions had escaped the notice of the court. The fact that the defendant in the eviction suit died during the pendency of the appeal and in his place his wife has been substituted, could not make any difference as the wife therefore would be representing the interest of her husband who has been claimed to be his tenant by the plaintiff. As there is no error on the face of record and no other sufficient reason for grant of the prayer for review as made by the petitioner, this Court is not inclined to allow the prayer and make any observation, as prayed.

The review application is, accordingly, dismissed.

(V. Nath, J)

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