

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.354 of 2016**

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Ravindra Chaudhari & Ors

.... Appellant/s

Versus

Ramagya Manjhi & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shiv Kumar Dwivedy

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 19-08-2016

Heard learned counsel for the petitioners.

Perused the order dated 18.04.2016 passed by Munsif, Narkatiaganj in Title Suit No.52 of 2014 whereby the learned court below rejected the amendment application filed by the petitioners on the ground that the amendment sought for i.e. for declaring the judgment and decree passed in Title Suit No.04 of 1993, as null and void, cannot be allowed, as it is incorrect to say that the petitioners had no knowledge about the said judgment and decree passed in Title Suit No.04 of 1993 because they were fourth party in the aforesaid suit and they were debarred from filing written statement. Against the said judgment the father of the petitioners filed Miscellaneous Case No.07 of 1997.

Learned counsel for the petitioners submitted that all these findings are error of record. In fact, they were not party in the suit nor the father of the petitioners was party in the said suit

nor any miscellaneous case was filed by the father of the petitioners.

So far this submission of learned counsel for the petitioners is concerned, it may be mentioned here that the Hon'ble Supreme Court in the case of **Jai Singh and others Vs. Municipal Corporation of Delhi and another, (2010) 9 Supreme Court Cases 385** has held that the supervisory jurisdiction cannot be exercised like a "bull in a China shop", to correct all errors of judgment of a Court, or tribunal, acting within the limits of its jurisdiction. This Court is not sitting in an appellate jurisdiction or revisional jurisdiction and, therefore, there is no jurisdiction to appreciate the fact and substitute its own finding for the purpose of supervising the order passed by the court below. If at all the findings are error of record apparent on the face of the record, this should have been pointed out by the petitioners before the court below but certainly it is not a ground for exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

Further the judgment and decree of the year 1993 has been sought to be declared as null and void at this stage i.e. more than after 16 years. The Hon'ble Supreme Court in the case of **L.C. Hanumanthappa Vs. H.B. Shivakumar, (2016) 1 Supreme**

Court Cases 332 has held that if the further relief sought to be added by way of amendment is barred by limitation on the date of grant of amendment then the amendment cannot be allowed. According to Articles 58 and 59 of the Limitation Act, the plaintiff could have prayed for declaration about the judgment and decree passed in the year 1995 within three years from the knowledge. Now, admittedly, therefore, the amendment sought for is barred by law of limitation.

In view of the finding recorded by the court below and the law laid down by the Hon'ble Supreme Court, in my opinion, this is not a case for interference in exercise of supervisory jurisdiction. Accordingly, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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