

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Review No.132 of 2016**

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Shila Devi & Ors

.... .... Petitioner/s

Versus

Most. Bibi Kamrunnisa & Ors

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Madhukar Pandey

For the Respondent/s : Mr.

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

ORAL ORDER

- 8      06-12-2016    **1.**            Heard the learned counsel, Mr. Manjeshwar Prasad Sinha, for the petitioner. Heard the learned counsel, Ms. Shilpi Keshri, heirs of opposite party No.1 and the learned counsel, Mr. Ashok Kumar Keshri, on behalf of other opposite parties.
- 2.**            This review application has been filed by the appellant petitioner for review of the Judgment dated 18.08.2015 passed by this Court in First Appeal No.127 of 1980 whereby the First Appeal was dismissed by this Court.
- 3.**            It will not be out of place to mention here that against the Judgment and Decree sought to be reviewed, the petitioner had filed petition for Special Leave to Appeal (Civil) No.109 of 2016 before the Supreme Court. After hearing both the parties, the Supreme Court dismissed the Special Leave petition by order dated 18.01.2016. Thereafter this review application has been



filed on 12.04.2016.

4. The learned counsel, Mr. Manjeshwar Prasad Sinha, for the petitioner argued many grounds which are elaborately enumerated from paragraph 17 to paragraph 19 of the review application. It is not necessary to reiterate here the same. In support of his contentions of these various points raised by him, he relied upon various decisions. Such as :- **(i) AIR 2016 SCW 4486 (ii) AIR 1964 SC 529 (iii) 1969 PLJR 195 (iv) AIR 1954 Andhra 39 (v) AIR 1983 Patna 321 (vi) AIR 1973 SC 1346 (vii) 2013 (1) PLJR 511.**

5. On the other hand, the learned counsels appearing on behalf of the opposite parties submitted that all the grounds which are being raised by the petitioner in this review application were raised before the Supreme Court in the Special Leave Petition for permission to file appeal before the Supreme Court but the Supreme Court found the grounds insufficient and, therefore, did not grant the permission to file Appeal. The learned counsel further submitted that this High Court is not sitting in Appeal and the scope of review is not equal to that of appellate Court or revisional Court. All the grounds raised by the petitioner relates to merit of the case, i.e., the expert evidence of D.W.12 could not



have been relied upon, the expert of the plaintiff P.W.7 should have been relied upon because there were corroborative evidences in support of the expert and that at paragraph 15, there is mistake committed by this Court in the Judgment such as in place of signature, LTI has been typed which is only typing mistake. The learned counsel relied upon the decision of the Hon'ble Supreme Court *AIR 1964 SC 1372*.

6. Perused the ground raised before the Hon'ble Supreme Court. The Special Leave Petition was produced before me by the opposite party at the time of hearing of this review application. From perusal of the Special Leave Petition before the Hon'ble Supreme Court, it appears that prima facie same ground raised before the Supreme Court which are being raised before this Court in this review application. All these ground raised by the petitioner relates to merit of the case. So far paragraph 15 of the Judgment is concerned, in place of signature, it has been typed as 'LTI'. This is nothing but a typing mistake and on this ground, the Judgment cannot be reviewed because of the fact that the mistake is not affecting the merit of the case. So far other grounds are concerned, those ground relate to merit of the case.

7. The Hon'ble Supreme Court in the case of *Kamlesh*



***Verma Vs. Mayawati AIR 2013 SC 3301*** has held as follows :-

**“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. A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected, but lies only for patent error. Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence. The power of review can be exercised for correctin of a mistake but not to substitute the view.”**

8. So far decision relied upon by learned counsel for the petitioner aforesaid are concerned, there is no dispute about the law laid down in those decisions but the Judgment and ratio desidendi decided by the said decisions are not applicable in the present facts and circumstances of this case.

9. In view of the above facts and circumstances of the case, I find no ground for review of the impugned Judgment passed by this Court. Accordingly, this review application is dismissed.

**(Mungeshwar Sahoo, J)**

Sanjeev/-

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