

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Review No.213 of 2015**  
**In**  
**First Appeal No. 620 of 1978**

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Shiv Shankar Tiwary & Ors

.... .... Petitioner/s

Versus

Kaushalya Devi & Ors

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Tej Narayan Singh

For the Respondent/s : Mr.

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

4      03-02-2016    1.            Heard the learned counsel, Mr. Md. Waliur Rehman, for the petitioner.

2.            This review application has been filed for review of the Judgment dated 24.06.2015 passed by this Court in First Appeal No.620 of 1978.

3.            It appears that the plaintiff opposite parties filed title suit No.112 of 1974 / 138 of 1976 for declaration of title and recovery of possession over 2 bigha 17 katha 12 dhurs land. The defendants filed contesting written statement. Thereafter, the trial Court decreed the plaintiff's suit for declaration of title and recovery of possession. The defendant first set filed First Appeal No.620 of 1978. After hearing both the parties, this Court by terms of Judgment dated 24.06.2015 allowed the appeal and set aside the Judgment and Decree passed by the trial Court and the plaintiff petitioner's suit was

dismissed.

4. The learned counsel for the petitioner submitted that at the time of hearing of the Appeal and or in the Judgment, this Court has not considered the statement made by P.W.4 that Sukhlal has already died 40 years ago, i.e. in the year 1937. Had this portion been considered then the case of the opposite parties that there was a Sada Ladabi executed in the year 1951 could not have been relied upon. Secondly, the learned counsel for the petitioner submitted that the Court also did not consider the evidence of D.W.17 who in his evidence clearly stated that the suit land has been recorded rightly in the name of Sukhlal Sah.

5. Perused the Judgment passed by this Court on 24.06.2015.

6. It may be mentioned here that admittedly ext. 'A' is the Ladabi which is Sada of the year 1951. So far this ext. 'A' is concerned, the Judgment passed by this Court is not based on that Ladabi deed. It appears that ext. 'A/1' is registered document. Admittedly, it was never challenged by the plaintiff. So far non-consideration of one line of the evidence of P.W.4 or D.W.17 is concerned, in my opinion, this cannot be said to be the ground for review of the Judgment. According to the submission of the learned counsel as summarized above, this relates to the merit of the case. However, the question will be whether the finding recorded by this

Court can be sustained on the evidences which has been considered or not. The Judgment cannot be reviewed for non-consideration of some statements made in the cross-examination of P.W.4 or cross-examination of D.W.17.

7. The Hon'ble Supreme Court in the case of *Kamlesh Verma Vs. Mayawati AIR 2013 SC 3301* held that **'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.** In the present case, it is not the case of the appellant that on the basis of the evidences which has been considered and recorded by this Court in the Judgment, the finding recorded by this Court could not have been arrived at.

8. In view of the above settled proposition of law, in my opinion, no case for review is made out. Thus, this review application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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