

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.499 of 2012

Indu Devi

.... Petitioner/s

Versus

Gauri Shanker Mandal & Ors.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Null

For the Respondent/s : Mr. Null

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

15 20-07-2016

The learned counsel, Mr. Vishal Saurabh for the petitioner submitted that in fact, M.J.C. application under Order 41 Rule 21 C.P.C. should have been filed for rehearing of the appeal but by mistake, review application has been filed under Order 47 Rule 1 C.P.C. The petitioner is seeking for rehearing of the appeal on the ground that no notice was served. On this ground, the learned counsel submitted that he may be permitted to convert this review application to an application under Order 41 Rule 21 C.P.C.

The learned counsel, Mr. Vidhanesh Mishra for the opposite party Nos.1 to 3 submitted that at this stage, the petitioner cannot be permitted to convert this review application as the review application is not maintainable on the ground that no notice was served on the respondent of the First Appeal.

Perused the record. In the review application, only

ground taken by the petitioner is that no notice was served on the petitioner and other one respondent in the First Appeal. On merit, the petitioner is not seeking review of the judgment passed in the First Appeal.

Therefore, so far prayer for review of the order on the ground that no notice was served is not maintainable. However, the application for rehearing of the appeal under Order 41 Rule 21 C.P.C. can be filed by the petitioner.

In such circumstances, the petitioner is permitted to convert this review application to an application under Order 41 rule 21 C.P.C. and amend the relief accordingly. This conversion must be done within four weeks failing which this review application shall stand dismissed as not maintainable.

(Mungeshwar Sahoo, J)

Saurabh/-

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