

202 CM-1492-C-2015 in/and
 RA-RS-8-C-2015 in
 RSA-1626-1987

Nazam Din Vs. Idu and others

Present: Mr. Manu K. Bhandari, Advocate
 for the applicant-respondents.

 Mr. G.N. Malik, Advocate
 for the non-applicant-appellant.

[1]. Applicant seeks review of judgment dated 05.12.2014 passed by this Court on the ground that his possession over the land is established by way of consistent entries in the revenue record.

[2]. Defendant No.1-Abdul Hamid has already expired and the Courts below legally granted interim protection in his favour, keeping in view his established possession over the land so purchased by him. Learned counsel for the applicant submits that the suit of the plaintiff was not only for declaration but also for permanent injunction and he was legally entitled to permanent injunction even, if, suit was held not maintainable being based on the plea of adverse possession. Learned counsel further submits that the relief of injunction is not against the true owner.

[3]. Notice of the application was issued to the non-applicant-appellant.

[4]. Learned counsel for the non-applicant-appellant submits that the arguments so raised in the present review petition were not raised at the time of arguing the main appeal and now the review applicant cannot raise such arguments

which were not raised at the time of deciding the main appeal. Even in the application so filed, there is no averment that these very grounds were argued by the learned counsel appearing on behalf of learned counsel for the applicant-respondents and were not adverted to by the Court. Even an independent suit for permanent injunction has since been filed by the review applicant before the competent Court. Even otherwise also the learned counsel who argued the appeal on behalf of the respondent is not before the Court in present review application. Review application can be argued by the same learned counsel who argued the main appeal. It appears that the applicant is very much sanguine of the fact and that is why he has not mentioned the factum of arguing or not arguing these grounds before the Court in the application.

[5]. Having considered the rival contention, I found that learned counsel for the review applicant wants to re-argue the appeal under the garb of present review application, which is beyond the scope of review under Order 47 Rule 1 CPC. Consequently, I find no ground to interfere in the judgment dated 05.12.2014 passed by this Court and therefore review application is dismissed.

May 02, 2016
prince

(RAJ MOHAN SINGH)
JUDGE