

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.101 of 2017

IN

LPA 300 of 2016

- =====
1. Madarsa Misbabul Uloom, Budhnagra, Sitamarhi through its Secretary, Abrar Ahmad son of Abul Khair Village & P.O. - Budhnagra, P.S. - Nanpur, District - Sitamarhi (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Human Resource Department, Government of Bihar, Patna.
2. Chairman, Bihar State Madarsa Education Board, Vidyapati Marg, Patna.
3. District Education Officer, Sitamarhi.
4. Aftab Alam son of Sadiq Hussain resident of Village and P.O.- Buddhnagra, Prakhand - Bokhda, P.S.- Nanpur, District - Sitamarhi.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Anil Kumar Mukund, Advocate
Mr. Anirudh Pandey, Advocate

For the Respondent/s : Mr. Ashutosh Ranjan Pandey (AAG- 15)

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 29-06-2017

This application has been filed for review of the judgment and order dated 20.2.2017 passed by this Court in L.P.A. No.300 of 2016 relegating the petitioner to take recourse of approaching the competent civil court.

As the petitioner has only been relegated to take recourse of approaching the competent civil court, and in view of the law laid down by the Hon'ble Supreme Court in the case of Sasi (Dead) Through Legal Representatives vs. Arabindakshan Nair And Anr.,



(2017) 4 SCC 692 in which the principle of law has been laid down in paras 6 to 9 in the following manner, we find no case made out for review. Paragraph Nos.6 to 9 of the judgment reads as under:

6. The grounds enumerated therein are specific. The principles for interference in exercise of review jurisdiction are well settled. The Court passing the order is entitled to review the order, if any of the grounds specified in the aforesaid provision are satisfied.

7. in *Thungabhadra Industries Ltd. V. State of A.P.*, the Court while dealing with the scope of review had opined:

“11. What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an “error apparent on the face of the record”. The fact that on the earlier occasion the Court held on an identical State of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an “error apparent on the face of the record”, for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by “error apparent”. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error”. (emphasis supplied)

8. In *Parsion Devi v. Sumitri Devi*, the Court after referring to *Thungabhadra Industries Ltd.*, *Meera Bhanja v. Nirmala Kumari Choudhary* and *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma*, held thus:

“9. Under Order 47 Rule 1 CPC, a judgment may be open to review inter alia if there is a mistake or 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 under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be “reheard and corrected”. A review petition, it must be remembered, has a limited purpose and cannot be allowed to be “an appeal in disguise”.”

9. The aforesaid authorities clearly spell out the nature, scope and ambit of power to be exercised. The error has to be self-evident and is not to be found out by a process of reasoning. We have adverted to the aforesaid aspects only to highlight the nature of review proceedings.”

We see no reason to make any indulgence in this application.

In view of the above, the application is rejected.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	4.7.2017
Transmission Date	N/A

