

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.41 of 2017

In
Civil Writ Jurisdiction Case No. 1686 of 2015

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Pramod Kumar & Ors

.... Petitioner/s

Versus

The Union of India & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Navendu Kumar, Adv.

For the Respondent/s : Mr. Anil Kumar Sinha, Adv.
Mr. Abhimanyu Deo, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

**HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY**

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

4 23-06-2017 Even though learned counsel for the petitioner places reliance on a judgment of this Court in the case of Chandra Mohan Jha & Anr. vs. Awadh Kishore Sharma & Ors., reported in 1996 (1) P.L.J.R. 119, to say that against the order passed in the Contempt Case the appeal under Clause 10 of the Letters Patent was not available, we are of the considered view that taking note of the fact that the learned Writ Court has exercised its jurisdiction under Article 226 of the Constitution, we had interfered into the matter. That being the position, there is no error apparent on the face of the record warranting re-consideration. Recently, Hon'ble Supreme Court in the case of Sasi (Dead) Through Legal Representatives vs. Arabindakshan



Nair And Anr., (2017) 4 SCC 692 has considered the scope of review and the power available to a Court in such proceedings and the principle of law has been laid down in paras 6 to 9 in the following manner:

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.”

Keeping in view the aforesaid, we find no case made out for review.

The application is accordingly rejected.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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