

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No. 403 of 2016

In

Second Appeal No. 26 of 2014

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Perween Khatoon @ Praveen, wife of Manjar Khan , resident of Mohalla-
Kasai Tola, Ara, P.S.- Ara Nagar, P.O.- Ara, District- Bhojpur.

... .. Defendant.....Appellant.....Petitioner

Versus

Rashida Bano, wife of Salim Kuraishi. resident of Mohalla- Kasai Tola, Ara,
P.S.- Ara Nagar, P.O.- Ara, District- Bhojpur.

... .. Plaintiff.....Respondent.....Opposite Party

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Appearance :

For the Petitioner/s : Mr. Rajendra Nath Sinha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 15-09-2017

The petitioner seeks review of the judgment and order, dated 26.04.2016, passed by this Court in Second Appeal No. 26 of 2014, whereby, on reaching a conclusion that no substantial question of law arose for consideration in the appeal, the second appeal has been dismissed by this Court.

2. An eviction suit was filed, being Eviction Suit No. 9 of 2008, by the plaintiff for eviction of the petitioner from the suit premises and also for realization of rent. The said eviction suit was dismissed by the trial Court by judgment and decree, dated 14.01.2013. The judgment and decree of the trial Court has been reversed, in appeal, by judgment and order, dated 11.12.2013,



passed by the learned District Judge, Ara, in Appeal No. 16 of 2013, and decree of eviction has been granted in favour of the plaintiff/opposite party. Aggrieved by the judgment and decree passed by the learned appellate court, dated 11.12.2013, the petitioner filed second appeal before this Court, under Section 100 of the Code of Civil Procedure, 1908, giving rise to S.A. No. 26 of 2016.

3. This Court by the judgment and order, under review, dated 26.04.2016, upon considering the facts and circumstances, came to a conclusion that the case did not involve substantial question of law and, accordingly, dismissed the said S.A. No. 26 of 2016.

4. The plea which have been taken in the present application, seeking review, is that part of the suit property is a government land, but the plaintiff got the alleged sale-deed executed and registered in her favour by one Saleha Khatoon by changing the *khata* and plot numbers and and also stating wrong facts, which caused annoyance to local people, who filed a petition before the Deputy Collector Land Reforms, Ara, who, in turn, entrusted the Circle Officer, Ara to inquire into the matter and submit a report. The Circle Officer submitted a report in the year 2016, stating that forgery has been committed by said Saleha Khatoon and Rashida Bano and the land, in question, was not the land of *Khata* No. 171



as shown in the sale-deed, executed by said Saleha Khatoon in favour of Rashida Khatoon. According to the petitioner, this new and important matter of evidence was not within the knowledge of the petitioner and hence it could not be produced at the time when the decree was passed or order made, despite exercise of due diligence, and, therefore, the order of this Court, dated 26.04.2016, needs to be reviewed.

5. The application, seeking review, is completely misconceived. A second appeal, under Section 100 of the Code of Civil Procedure, can be entertained only if it involves substantial question of law to be considered by the Court. The Court, upon perusal of the judgments of the trial Court and the lower appellate Court, came to specific conclusion that no substantial question of law arose. The ground which taken by the petitioner that he acquired knowledge of certain facts subsequent to passing of the judgment and order of this Court, dated 26.04.2016, cannot be a ground for review of the judgment and order passed in a second appeal.

6. Remedy of review of an order/judgment, under Section 114, read with Order 47 of the Civil Procedure Code, is exception to the general rule that once judgment is signed and pronounced, the Court becomes *functus officio*. It imperative, therefore, that



such power is exercised only where glaring omission, patent mistake, or like grave error, has crept in earlier by judicial fallibility. A move for review of a judicial order cannot be entertained lightly. Supreme Court's decisions in cases of ***Moran Mar Basselios Catholicos & Anr. Vs. Most Rev. Mar Poulose Athanasius & Ors. [A.I.R. 1954 S.C. 526]***, ***State of Rajasthan Vs. Balveer Alias Balli & Anr.***, reported in ***(2013) 16 SCC 321***, and ***Commercial Tax Officer, Rajasthan Vs. Binani Cements Limited & Anr.***, reported in ***(2014) 8 SCC 319***, can be usefully referred to, to support this view.

7. Further, an error, which is not self evident on face of the order, cannot be a ground for review.

8. Essential Conditions for exercise of power of review is not available in this case.

9. This review application, being completely frivolous and misconceived, is, hereby, dismissed without costs.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22.09.2017
Transmission Date	N/A

