

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Review No.339 of 2016
IN
Letters Patent Appeal No. 138 of 2013**

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Rajendra Prasad Sah, Son of Bhuvneshwar Sah, Resident of Mohalla- Sandalpur, (Bibchak), P.S.- Kasimbazar (Kotwali), District- Munger at Present residing at Rajeev Nagar, P.S- Rajeev Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary.
2. The Secretary, Personnel Administration and Reform Department, Government of Bihar, Old Secretariat, Patna.

.... Respondent/s

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Appearance :

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

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 03-07-2017

Re.: Interlocutory Application No.5602 of 2016

The delay in filing of this application is condoned.

Interlocutory Application stands allowed and disposed
of.

Re. : Civil Review No.339 of 2016

Seeking review of an order dated 30.03.2016 passed by the Division Bench of this Court in Letters Patent Appeal No.138 of 2013 on 30th March, 2016, this application has been filed for review.

The scope of judicial review in such cases and the principles applicable has been recently crystallized by Hon'ble the



Supreme Court in the case of **Sasi (Dead) through Legal Representatives. versus Aravindakshan Nair and ors.** [(2017) 4 SCC 692] and from paragraph 6 to 9 reproduced hereinbelow, the principles of review has been laid down by the Supreme Court:-

- “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. Govt. of A.P.*: AIR 1964 SC 1372, the Court while dealing with the scope of review had opined: (AIR p. 1337, para 11)

“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*, (1997) 8 SCC 715, the Court after referring to *Thungabhadra Industries Ltd. v. State of A.P.*, AIR 1964 SC 1372, *Meera Bhanja v. Nirmala Kumari Choudhury*, (1995) 1 SCC 170, and *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma*, (1979) 4 SCC 389, held thus:

Under Order 47 Rule 1 Code of Civil Procedure 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 Code of Civil Procedure. In exercise of the jurisdiction under Order 47 Rule 1 Code of Civil Procedure 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.”

If the grievance made by the applicant, who appears in



person, in this case is analyzed in the backdrop of the aforesaid principles, it is a case which is beyond the scope of review jurisdiction of this Court under Order 47 Rule 1 of the Code of Civil Procedure and therefore, we see no reason to make any indulgence into the matter. The grievance made in this application has to be considered by a higher Court in an appeal or further proceedings as may be available to the applicant.

With the aforesaid, the application is dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

