

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.219 of 2017

IN

Letters Patent Appeal No. 778 of 2016

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R. K . Rajan Son of Sri Moorat Lal, Resident of Bihar Road, Hilsa Nalanda at present resident of Hari Niketan/ Formally Pusp Prakash Bhawan, Near Choudhary Petrol Pump, Kankarbagh Main Road, P.S. Kankarbagh, Patna- 20.

.... Petitioner/ Appellant/Petitioner
Versus

1. The State of Bihar.
2. The Home Secretary, Department of Home, Bihar, Patna.
3. The District Magistrate, Nalanda.
4. The S.D.P.O., Hilsa, Nalanda.
5. The Superintendent of Police, Nalanda.
6. The Officer-in- Charge, Hilsa P.S., Nalanda.
7. Smt. Nilu Kumari, Wife of Shailesh Kumar So, Resident of Mohalla- Koeri Tola, Hilsa, District Nalanda.

.... Respondents/ Respondent/Opp. Parties

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Appearance :

For the Petitioner/s : Mr. R. K. Rajan

For the Respondent/s : Mr. Prabhat Kumar Verma (AAG 3)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 11-04-2018

Seeking review/recall of an order passed by us on
04.05.2017 in LPA No. 778 of 2016 this application has been filed.

The order passed by us on 4.5.2017 reads as under:-

“On 04.04.2017 the appellant was granted four weeks with a condition that the matter should be argued today else the matter shall be heard and decided.

In the order dated 24.02.2016 passed by the learned Writ Court in CWJC No. 6610/2013 we find that in the matter of private dispute of property between the



appellant and the private respondent the Writ Court refused to interfere on account of various factors primarily that it is a private dispute of property which cannot be gone into in a writ application. We dispose of the matter granting liberty to the parties to take recourse to the remedy available under law.

The learned Writ Court has not committed any error warranting interference. The appeal is therefore dismissed.”

It was argued before us by placing reliance on the judgment of the Supreme Court in the case of ***Chairman, Disciplinary Authority, RLBKG Bank vs. J S Varshney & Ors.*** (AIR 2009 SC 3276) and ***M/s Kunj Aluminium vs. Koninklijke Phillips Electronics NV*** (AIR 2011 SCW 2272) that even in an appeal like letters patent appeal the order disposing of the appeal even affirming should show reasons indicating application of mind and if it is not done the order is unsustainable.

We have considered the aforesaid contention and we find that the order passed by us is an order affirming the order passed on 24.02.2016 passed by the learned Writ Court in CWJC No. 6610 of 2013. The order passed by the learned Writ Court runs to more than six pages and the learned Writ Court after narrating each and every aspect of the matter has found that the dispute in question is a



private dispute between the parties and, therefore, the jurisdiction under Article 226 of the Constitution cannot be invoked. We have only affirmed the order passed in detail by the Writ Court and while doing so as indicated hereinabove, we have held that the matter is a private dispute pertaining to property between the appellant and the private respondents and, therefore, no indulgence is required.

In our considered view, the judgment cited by the petitioner who is a practicing Advocate of this Court is not applicable in the matter. We have evaluated the principles of law laid down by the Supreme Court with regard to the scope of review as held recently in the case of *Sasi (Dead) vs. Aravindakshan Nair [(2017) 4 SCC 692]* wherein from paragraphs 6 to 9 the scope of review has been detailed 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.* (AIR 1964 SC 1372), 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 characterized 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.”

8. In *Parsion Devi v. Sumitri Devi* (1997) 8 SCC 715, the Court after referring to *Thungabhadra Industries Ltd.* (supra), *Meera Bhanja v. Nirmala Kumari Choudhury* (1995) 1 SCC 170 and *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma* (1979) 4 SCC 389, 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.”

If we analyze the case in hand in the backdrop of the aforesaid legal principles, we find no error warranting reconsideration. In fact, there is no error apparent on the face of the record warranting review or recall of the order in question.

The application is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

mr.l./-

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