

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7622 of 2014

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M/S P.M.Parvatiyar @ Co. South Gandhi Maidan, Patna Through its Managing Director, Mr. P.M. Parvatiyar S/o Late Shiv Dwiti Prasad resident of 236, Patliputra Housing Colony, Patna

.... Petitioner/s

Versus

1. Bihar State Financial Corporation Fraser Road, Patna - 1
2. Mr. Alok Verma C/o Bihar State Financial Corporation, Fraser Road, Patna - 1
3. State Bank of India, Exhibition Road Branch, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s. Jitendra Kishore Verma & Abhishek Anand, Advocates

For the Respondent/s : Mr. Partha Sarthy, Advocate, BSFC
M/s. Sanjay Singh Thakur & Parijat, Advocates, SBI.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

CAV JUDGMENT

Date: 18 -08-2018

Petitioner before this Court is plaintiff of Title Suit No. 137 of 1987. He has filed the aforesaid suit for declaration that the tender notice for sale as contained in Annexure-1 and 2 of the plaint and sale of the factory premises of the plaintiffs in pursuance thereof are quite under valued, mala-fide unconstitutional, and against the provision of Section 29 of the State Financial Corporation Act, 1951 besides some other relief. The said suit was dismissed and the petitioner filed Title Appeal No. 65 of 1992 which is pending disposal before the Additional District Judge, Patna. The petitioner filed petition on 08.07.2011 for amendment of plaint which was dismissed on 02.09.2011 by the Fast



Track Courts. Then the petitioner filed petition on 23.09.2011 for reviewing of said order which was dismissed on 30.10.2013. The present application has been filed to quash the said order as well as the order whereunder the court below refused to allow amendment.

2. Heard learned counsels for the petitioner and the respondents and perused the record.

3. The petitioner wants two amendment in the plaint which are recovery of possession with respect to the factory premises and enhancement of valuation. The plaintiff further wants to add details of factory premises in schedule-1 of the plaint.

4. On going through the annexures of this writ application, I find that the factory in question stands over the land belonging to Bihar Industrial Area Development Authority (in short B.I.A.D.A.) and the land was given to petitioner on lease. The respondents defendants are not the owner of the land and the factory premises. The respondent no.1 (B.S.F.C) had only given loan to the petitioner. The petitioner (plaintiff) has not impleaded the B.I.A.D.A. as party to the suit which was filed for about 30 years ago. From impugned order, it appears that the BIADA cancelled the lease on account of non payment of yearly rental of lease by the petitioner and the BSFC sold the property in auction to M/S Data Pharmaceuticals and put the concerned in possession thereof. The petitioner did not implead the BIADA or M/S



Data Pharmaceuticals as party to the suit. The learned Fast Track Court (Additional District Judge) considering the above facts rejected the amendment petition. It further appear that the petitioner (plaintiff) got his plaint amended on two occasions as per order dated 27.11.1990 and 22.08.1991 but he did not sought any amendment with respect to recovery of possession. These facts were within the full knowledge of the petitioner and there was no fresh material for reviewing the said order and the petitioner's prayer was rightly rejected.

5. The Hon'ble Supreme Court in the case of Kamlesh Verma Vs. Mayawati reported in **AIR 2013 SC page 3301** has observed that :- The power of review can be exercised for correction of a mistake but not to substitute a view. The mere possibility of two views on the subject is not a ground for review. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XLVII, Rule 1 of CPC. In view jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction.

6. In view of above discussions, I find that the court below has not committed any jurisdictional error in rejecting the amendment



petition and refusing to review the said order. This application being devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	08.08.2018
Uploading Date	18.08.2018
Transmission Date	N/A

