

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.474 of 2017

IN

Civil Writ Jurisdiction Case No. 5500 of 2013

- =====
1. Md. Sabbir Alam, Son of Late Sekh Badruddin alias Budhu.
 2. Md. Taiyab, Son of Late Sekh Badruddin alias Budhu.
 3. Md. Hakruddin, Son of Late Sekh Badruddin alias Budhu.

All 1 to 3 are residents of village- Parsa, P.O.- Pipra Khurd, P.S.- Supaul,
Distt- Supaul.

.... Petitioner/s

Versus

1. Md. Asharful Hoda, Son of Kalimuddin.
2. Md. Nasimul Hoda, Son of Kalimuddin.
Both 1 and 2 are residents of village- Parsa, P.O.- Pipra Khurd, P.S.-
Supaul, Distt- Supaul. [Petitioners]-Respondents.
3. Sikandar Azam, Son of Md. Idris.
4. Abdul Matin, Son of Md. Idris.
5. Kalim Son of Md. Idris.
6. Naiyar Azam Son of Md. Isris.
All 3 to 6 are residents of ward no.20 Nagar Parishad, Supaul, P.S.- Supaul,
Distt- Supaul.
7. Daughter Jarina Khatoon, Wife of Md. Ashraful Hoda, resident of Parsha, P.O.
Pipra Khurd, Distt. Supaul.
8. Bibi Tahbun, Daughter of Md. Sadique, wife of Md. Mokim, residents of
village- Sukhnaha, P.S.- Marauna, District- Supaul.
9. Md. Enamul Haque, Son of Late Md. Hasim.
10. Md. Ejharul Haque, Son of Late Md. Hasim.
11. Md. Ekramul Haque, Son of Late Md. Hasim.
12. Bibi Fatma, Wife of Late Md. Hasim.
All 9 to 12 are residents of village- Parsha. P.O.- Pipra Khurd, P.S.- Supaul,
District- Supaul.
13. Md. Rajauddin, Son of Late Iliyas, residents of village- Sokhnaha, Amin tola,
P.S.- Marauna, District- Supaul.
14. Bibi Khusbun, Wife of Late Alauddin.
15. Md. Tajuddin, Son of Late Slauddin.
Both 14 to 15 are resident of Village- Sokhnaha, Amin tola, P.S.- Marauna,
District- Supaul at present residing in Ward No.9 (Punarwas) P.S. & District –
Supaul.
16. Md. Pintu, Son of Md. Rizwan.
17. Bibi Guria, Daughter of Md. Rizwan.
18. Md. Rizwan, Son of Late Abul Hasasn.
19. Bibi Hasbun, Wife of Md. Kalim Marhhum.
All 16 to 19 are residents of village- Parsa, P.O.- Pipra Khurd, P.S. & District-
Supaul.
20. Md. Khairuddin, Son of Rajauddin.
21. Md. Rajiuddin, Son of Rajauddin.
22. Kasiuddin, Son of Rajauddin.
All 20 to 22 are residents of village- Sokhnaha Amin tola, P.S.- Marauna,
District- Supaul.
23. Salma Khatoon, Daughter of Rajauddin, Wife of Md. Gaffur, resident of
Sokhnaha Amin Tola, P.S.- Marauna, District- Supaul.
24. Rehana Khatoon, Daughter of Rijauddin, Wife of Md. Naushad, Resident of
Ward No.9 Punarwas, Supaul, P.S. & District- Supaul.



25. Bibi Ajbun, Wife of Nurul Azam.

26. Bibi Munga, Wife of Md. Sultan.

Both 25 and 26 are residents of village- Parsa, P.O.- Pipra Khurd, P.S. and District- Supaul.

27. Md. Naushad, Son of Late Md. Nizam & Bibi Najbul.

28. Md. Ekbal, Son of Late Nizam & Bibi Najbul.

29. Md. Shomsher, Son of Late Md. Nizam & Bibi Najbul.

All 27 to 29 are residents of village- Kalhua, P.S. Singheshwar, District- Madhepura.

30. Bibi Gulshan, Wife of Md. Musrshid.

31. Md. Khurshid, Son of Md. Shakur.

Both 30 and 31 are residents of village- Mazurba, P.O. Macha, Kusha, P.S.- Triveniganj, District- Supaul.

32. Bibi Aasbun, Wife of Md. Sikandar Azam, resident of Ward No.14, Supaul, P.S. & District- Supaul.

33. Bibi Sahnai, Wife of Md. Belal, residents of village- Pipra Khurd, P.S. & District- Supaul.

34. Md. Inamul Haque, Son of Late Md. Kalim.

35. Md. Nasimul Haque, Son of Late Md. Kalim.

36. Md. Bablu, Son of Late Md. Agaul Haque.

37. Md. Sanaul Haque, Son of Late Md. Kallim.

All 34 to 37 are residents of village- Sokhnaha Amin tola, P.S. Marauna, District Supaul at present Ward No.9 Supaul, P.S. & District- Supaul.

38. Bibi Afsana, Wife of Md. Jabbar, residents of Ward No. 14, P.S. & District- Supaul.

39. Bibi Buna Khatoon, Wife of Md. Muslim.

40. Bibi Runa Khatoon, Wife of Md. Gulab.

Both 39 & 40 are residents of village- Parsa, P.O.- Pipra Khurd,, P.S. & District- Supaul.

.... Respondents(Opposite Parties)

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Appearance :

For the Petitioner/s : Mr. Sushanta Kumar Das, Advocate

For the Respondent/s : Mr. Md. Waliur Rahman, Advocate

Mr. Nishant Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 01-08-2018

The respondents of CWJC No.5500 of 2013 have filed this application to review the judgment passed by this Court on 07.11.2017.

2. Heard learned counsel for the petitioners and the respondents.

3. It has been submitted that at the time of hearing by this



Court on merit, some wrong submissions were made by learned counsel for the petitioners resultantly this Court had allowed the writ. The documents marked as Ext-A, C/1 and D are fabricated document and so these documents were necessary to be examined by the handwriting expert to arrive at the correct decision of the suit. The age of those documents are necessary to be ascertained in order to prove the fraudulent character of document. The petitioners had filed petition for sending those documents for forensic test for examination by a handwriting expert much before the closing the case of the defendants and so the observation of this Court that the plaintiffs/petitioners did not raise objection at the earliest stage is against the material on record and so the said order passed in writ is fit to be reviewed upholding the order of learned court below.

4. Learned counsel for the respondents on the other hand submitted that in the present review application is not legally maintainable. The petitioners had decided the writ application at the time of argument. The points raised by the petitioners were considered. The petitioners have not filed any counter affidavit against the writ application to controvert the facts asserted by the petitioners. The learned counsel has relied on ruling reported in AIR 2013 Supreme Court 3301 wherein the grounds for review the order has been reiterated. The documents which have been annexed with the review application were never cited earlier. The said order is not



sought to be reviewed on the ground of any clerical error rather on the fact on which the court has already applied its mind.

5. On going through the review petition and submission of both the parties, I find that the petitioners have not controverted the statement made in the writ application. The petitioners had filed a petition for examining the said document by an handwriting expert on 23.04.2007 but the said petition was not pressed. It was pressed by the petitioners by filing petition dated 23.03.2009 whereunder a prayer was made to hold enquiry as regards genuineness of document. It appears that the petitioners have raised protest against those documents at a belated stage although the petitioners were aware of those documents. The documents which have been annexed of this review application cannot be taken into consideration in view of the fact that the writ application was decided on the basis of material on record which were not controverted by the learned counsel for the petitioners.

6. 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.

7. The present application has been filed to examine the possibility of another view on the basis of documents which were never placed before this Court.

8. In view of above facts, I do not find any merit in the present application filed for review of above order passed in CWJC No.5500 of 2013. It is, however, made clear that any observation made by this Court in this order or in the order passed in CWJC No.5500 of 2013 will prejudice the court below while deciding the merit of the suit and also genuineness of document on the basis of available materials at the time of deciding the suit.

9. This review application is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06.08.2018
Transmission Date	N/A

