

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.323 of 2017

IN
Civil Writ Jurisdiction Case No. 8050 of 2014

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Gayasuddin @ Gayas, son of Late Abdul Hakim, resident of Village- Rudauli, P.S. Bachhwara, District Begusarai.

.... Petitioner/s

Versus

1. Md. Jamaluddin, son of Late Abdul Sakur.
2. Md. Jeyauddin, son of Late Abdul Sakur. Both residents of Mauza- Rudauli, P.S. Bachhwara, District- Begusarai.
3. Md. Nazmun Nisa wife of Abdur Rasid, resident of Bariyarpur, P.S. Bariyarpur, District- Begusarai.
4. Sabila Khatoon wife of Abdul Sattar, resident of Mauza- Rudauli, P.S. Bachhwara, District- Begusarai.
5. Hemila Khatoon, wife of Sattar, resident of Daniyalpur, P.S. Teghra, District- Begusarai.
6. Md. Mahfur, son of Md. Salim.
7. Md. Sattar, son of Md. Salim. Both resident of Mauza Gogidih P.S. Khadbandpur, District- Begusarai.
8. Md. Kamrun Nisa, wife of Reyasat, resident of Mauza Maau, P.S. Bidyapati Nagar, District- Samastipur.
9. Md. Hasbun, wife of Md. Idrish, resident of Mauza Maau, P.S. Bidyapati Nagar, District- Samastipur.
10. Md. Samrun Nisa wife of Khalil Sah, resident of Daniyalpur, P.S. Teghra, District- Begusarai.
11. Md. Jaybun Nisa, wife of Md. Muslim, resident of Samsha Kastoli, P.S. Mansurchak, District Begusarai.
12. Md. Shaybun Nisa, wife of Usman, resident of Mauza- Rudauli, P.S. Bachhwara, District- Begusarai.
13. Aaligir, son of Abid.
14. Md. Salik.
15. Md. Harun.
16. Md. Sahadat.
17. Md. Rashid. All sons of Abdul Bari, all resident of Village/ Mauza Bahrampur, P.S. Mansurchak, District- Begusarai.
18. Md. Illiyas.
19. Md. Kamruddin.
20. Shajhan.
21. Noorjahan. No. 18 to 21 sons of Abdul Hakim.
22. Md. Mamunise wife of Abdul Hakim. All resident of Mauza- Rudauli, P.S. Bachhwara, District- Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brajesh Kumar Pandey, Advocate
For the Respondent/s : Mr. None.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT
Date: 24-08-2018



Petitioner has filed this application for review of order dated 24.02.2016 passed by this Court in CWJC No.8050 of 2014.

2. Heard learned counsel for the petitioners.

3. Petitioner before this Court is defendant no.1 in Title Suit No.56 of 2005 pending in the Court of Munsif-II, Begusarai where a petition was filed by him under Order 26 Rule 9 of CPC for appointment of survey knowing pleader commissioner. His prayer was refused and the petitioner filed CWJC No.8050 of 2014. This Court after hearing the petitioner rejected the writ observing that both parties to the suit were claiming possession on the basis of their title. The plaintiffs filed the suit on the basis of registered sale deed with respect to the land mentioned in schedule-C of the plaint. The plaintiffs have further sought relief for recovery of possession over the land mentioned in schedule-D of the plaint. From the copy of plaint produced by the petitioner, it appears that the plaintiffs have filed the suit with specific boundary and sketch map given at the foot of the plaint which has been claimed to be purchased by the mother of the plaintiffs. The petitioner has prayed to review the said order and appoint the survey knowing pleader commissioner.

4. In this regard, I would like to refer ruling in the case of Kamlesh Verma Vs. Mayawati reported in **AIR 2013 SC page 3301** wherein the scope of review has been discussed by Hon'ble Apex



Court. The Hon’ble Apex Court 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 of 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”.

5. In the case in hand, I find that the writ application has been dismissed after considering all the submissions which has been raised by the learned counsel for the petitioner. On going through the review application and order passed in CWJC No.8050 of 2014, I do not find any error in the order in question.

6. This application being devoid of merit is dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
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