

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3995 of 2018

In
Civil Writ Jurisdiction Case No.5803 of 2015

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Prashant Kumar S/o Bhritu Ashram Prasad R/o Mohalla- Anandpuri, P.S.-
Shri Kishnapuri, District- Patna.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Bihar State Agricultural Produce Marketing Board, Pant Bhawan, Patna
repealed through its Administrator.
3. The Administrator, Bihar State Agriculture Produce Marketing Board, Patna
(Repealed).
4. The Agriculture Produce Market Committee (Repealed), P.S.- Sultanganj,
District Patna through its Secretary.
5. The Secretary, Agriculture Produce Market Committee, Musallahpur
(Repealed), P.S.- Sultanganj, District- Patna.
6. The District Magistrate, Patna.

... .. Opposite Parties

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Appearance :

For the Petitioner : Mr.Bishnu Kant Dubey, Advocate
For the Opposite Parties :

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date : 15-05-2019

Heard learned counsel for the petitioner.

2. This application has been filed for modification/
review/recall of the judgment dated 04.09.2018 passed in CWJC No.
5803 of 2015.

3. Learned counsel for the petitioner submits that on the
date when the writ matter was taken up, learned counsel for the
petitioner Mr. Bishnu Kant Dubey had gone to Delhi to attend the
marriage ceremony on 03.09.2018 and instructed his colleague, Sri
Ranjeet Kumar to make a prayer for a day's adjournment which



however was not made. The writ petition was dismissed in view of the considerable delay and laches on the part of the petitioner in approaching this Court after delay of almost two decades in respect of a claim for possession of shop allotted to him as far back as in the year 1997. It is submitted that had the learned counsel for the petitioner been heard, he would have placed the matter properly on its merit and attempted to demonstrate that the claim of the petitioner was not stale one and that there were no delay and laches on the part of the petitioner.

4. The parameters and restricted scope for interference in review jurisdiction are well known. In *Thungabhadra Industries Ltd. vs The Government of Andhra Pradesh*, AIR 1964 SC 1372, it was held as follows :

“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.”

5. In *Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi* (1980) 2 SCC 167, it was explained as follows :

“Whatever be the nature of the proceeding, it is beyond dispute that a review proceeding cannot be equated with the original hearing of the case and the finality of the judgment delivered by the Court will not be reconsidered except where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility.”

6. In *Haridas Das vs Smt. Usha Rani Banik*, (2006) 4 SCC 78, it was held as follows :-



“The parameters are prescribed in Order XLVII of the CPC and for the purposes of this lis, permit the defendant to press for a rehearing "on account of some mistake or error apparent on the face of the records or for any other sufficient reason". The former part of the rule deals with a situation attributable to the applicant, and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible. Neither of them postulate a rehearing of the dispute because a party had not highlighted all the aspects of the case or could perhaps have argued them more forcefully and/or cited binding precedents to the Court and thereby enjoyed a favourable verdict.”

7. Having regard to the submissions of the petitioner and in view of the observations made in the aforesaid judicial decisions, this Court is of the view that no interference in the matter is called for. The mere perception that the learned counsel for the petitioner might have presented his case in a proper manner had he been present at the relevant time cannot constitute a valid ground for review of the judgment, as explained in *Haridas Das's case* (supra).

8. The present petition stands dismissed.

(Vikash Jain, J)

BT/-

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