

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.99 of 2023

In
Letters Patent Appeal No.601 of 2001

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Sri Prem Prakash S/o Late Ajardeo Narain Srivastava R/o Village- Khudra,
P.S.- Marwan, District- Siwan, presently residing in Road No. 8, Vijay Nagar,
Rupaspura, Patna- 800014, P.S.- Rupaspura, District- Patna, Mb. No.
9771527935.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Secretary, Deptt. of Animal Husbandary and Fishries, Govt. of Bihar, Patna.
2. The Secretary, Deptt. of Finance, Govt. of Bihar, Patna.
3. The Director, Directorate of Dairy Development, Vikash Bhawan, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Parmod Kumar Sinha, Advocate Mr.Arvind Kumar Sharma, Advocate Mr.Chetan Kumar, Advocate Ms.Chhitiz Parashar, Advocate
For the Opposite Party/s :		Mr.Md. Khurshid Alam (Aag 12)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

2 28-11-2023 The present civil review application or petition is filed

to recall order dated 09.07.2008 passed in LPA No. 601 of 2001

in which petitioner suffered an order.

2. Instead of preferring civil review or approaching

Apex Court petitioner invoke remedy of filing afresh CWJC No.

9883 of 2021 and it was disposed of by learned Single Judge on

23.03.2023 with a liberty to petitioner to prefer review against

the order dated 09.07.2008. Hence, the present civil review



petition is presented.

3. Insofar as recalling the order dated 09.07.2008 passed in LPA No. 601 of 2001 there is enormous delay of more than one and half decade. There is no application for condonation of delay. Further, there is a latches on the part of the petitioner. Further, scope of review is limited in the light of Order 47 Rule 1 of CPC. Apex Court in the case of **S.Murali Sundaram vs. Jothibai Kannan & Ors.** reported in **2023 SCC OnLine SC 185** elaborately considered under what circumstances courts can review its own order. Recently in yet another decision in the case of **Sanjay Kumar Agarwal v. State Tax Officer (1) & Anr.** reported in **2023 SCC OnLine SC 1406** Supreme Court lays down eight principles in Para 16 which reads as under:-

“16. The gist of the afore-stated decisions is that:—

(i) A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

(ii) A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

(iii) 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



record justifying the court to exercise its power of review.

(iv) In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be “reheard and corrected.”

(v) A Review Petition has a limited purpose and cannot be allowed to be “an appeal in disguise.”

(vi) Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.

(vii) An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(viii) Even the change in law or subsequent decision/judgment of a co-ordinate or larger Bench by itself cannot be regarded as a ground for review.”

In the light of principle laid down by the Apex Court decisions the petitioner has not made out a case so as to recall the order or review the order dated 09.07.2008 passed in LPA No. 601 of 2001. Hence, the civil review stands dismissed.

4. At this stage, learned counsel for the civil review petitioner seeks permission to file interlocutory application for condonation of delay in filing civil review petition. Having regard to the enormous delay of more than one and half decade. Even, if we permit him to file interlocutory application for condonation of delay. He may not in a position to apprise delay



of one and half decade in filing civil review petition. In fact, in all fairness petitioner should have filed interlocutory application for condonation of delay along with the civil review petition, having regard to the fact that civil review petitioner is seeking for recalling the order dated 09.07.2008.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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