

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.365 of 2019

In
Civil Writ Jurisdiction Case No.10414 of 2019

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Dashrath Paswan S/o Late Mahavir Paswan Resident of Mohallah- Laliyahi,
P.O.- Katihar, P.S.- Katihar, Via- Sabab Thana, District- Katihar (Bihar).

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, North Frontier Railway, Maligaon (Guahati), Pin-Code- 781001
2. The Divisional Railway Manager North Frontier Railway, Katihar (Bihar), Pin Code-854105
3. The Divisional Mechanical Engineer (Power) North Frontier Railway, Katihar (Bihar), Pin Code-854105

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Munna Pd Dixit (M.P. Dixit), Advocate Mr. S.K. Choubey, Advocate Mrs. Swastika, Advocate
For the Opposite Party/s :		Mr. Ramadhar Shekhar, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

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

4 24-08-2023 Heard learned counsels for respective parties.

2. The present civil review petition is filed for recalling the order dated 07.05.2019 passed in CWJC No. 10414 of 2019.

3. Learned counsel for the petitioner is re-arguing the main matter on the score that imposition of penalty of removal would be too harsh and it is not commensurate with the alleged allegations read with the proved charges. The same cannot be



appreciated in the review petition. Scope of entertaining review petition is limited to the extent that what is error apparent on the face of the record in the light of Order 47 Rule 1 read with Section 114 of the Civil Procedure Code. Moreover, Apex Court in the case of **S. Murali Sundaram vs. Jothibai Kannan** reported in **2023 SCC OnLine SC 185** considered that under what circumstances review could be entertained by the Court. Para 14 to 17 of the aforesaid judgment reads as under:-

"14. At the outset, it is required to be noted that by the impugned judgment and order the High Court has allowed the review application filed under Order 47 Rule 1 CPC and has set aside the judgment and order dated 03.03.2017 passed in Writ Petition No. 8606 of 2010. While allowing the review application the High Court has observed and held that the earlier judgment and order dated 03.03.2017 in Writ Petition No. 8606 of 2010 was erroneous. Therefore, question which is posed before this Court for consideration is whether in the facts and circumstances of the case the High Court is justified in allowing the review application filed under Order 47 Rule 1 CPC and setting aside the reasoned judgment and order passed in main writ petition?"

15. While considering the aforesaid issue two decisions of this Court on Order 47 Rule 1 read with Section 114 CPC are required to be referred to? In the case of Perry Kansagra (supra) this Court has observed that while exercising the review jurisdiction in an application under Order 47 Rule 1 read with Section



114 CPC, the Review Court does not sit in appeal over its own order. It is observed that a rehearing of the matter is impermissible in law. It is further observed that review is not appeal in disguise. It is observed that power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. It is further observed that it is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy has been finally decided. After considering catena of decisions on exercise of review powers and principles relating to exercise of review jurisdiction under Order 47 Rule 1 CPC this Court had summed upon as under:

“(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking



the doctrine actus curiae neminem gravabit.”

16. It is further observed in the said decision that an error which is required to be detected by a process of reasoning can hardly be said to be an error on the face of the record.

17. In the case of Shanti Conductors (P) Ltd. (supra), it is observed and held that scope of review under Order 47 Rule 1 CPC read with Section 114 CPC is limited and under the guise of review, the petitioner cannot be permitted to reargue and reargue questions which have already been addressed and decided. It is further observed that 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 under Order 47 Rule 1 CPC.

4. In the light of these facts and circumstances, the petitioner has not made out case. Hence, the present civil review petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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