

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.86 of 2019

In
Letters Patent Appeal No.169 of 2015

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1. Imteyaz Ahmad, Son of Late Sk. Enayat Karim R/o Mohalla-Ganj No. 1, P.S.-Bettiah Town, District-West Champaran
 2. Neyaz Ahmad Son of Late Sk. Enayat Karim R/o Mohalla-Ganj No. 1, P.S.-Bettiah Town, District-West Champaran
 3. Ishteyaque Ahmad Son of Late Mushtaque Ahmad R/o Mohalla-Ganj No. 1, P.S.-Bettiah Town, District-West Champaran

... .. Petitioners

Versus

1. The Bihar State Sunni Wakf Board through the Chief Executive Officer, Bihar State Sunni Wakf Board, Patna-1
2. The Chief Executive Officer Bihar State Sunni Wakf Board, Patna-1
3. The State of Bihar through Chief Secretary, Patna

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr.
For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

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

Date : 21-06-2024

Matter called twice. None appears.

2. There is a delay of about 08 months and 15 days in filing L.P.A. Sufficient cause has not been shown. The one and only contention for condonation of delay is at para-2 of the application for condonation of delay and it reads as under:

2. That the delay in filing the instant Review Application has been occurred due to change of



law as laid down by this Hon'ble Court regarding the matter under consideration, reported in 2019(1)BLJ-518 in which the Hon'ble Court held that in jurisdiction of Civil Court are not ousted on account of Section-85(A) of the Waqf Amended Act No. 27 of 2006 after following the Hon'ble Apex Court decisions."

3. Be that as it may, issue is relating to maintainability of L.P.A against the order of the learned Single Judge. Subject matter is relating to the order dated 26.02.2010 passed by the Sub-Judge, West Champaran at Bettiah in Title Suit No. 278 of 2008. The Title Suit was transferred to the Waqf Tribunal, Bihar.

4. Co-ordinate Bench in para-6 of order dated 16.05.2016 passed in L.P.A. No. 185 of 2015 held as under:

"6. At the outset, we may notice that before the learned Single Bench the order passed by the Civil Court was under challenge. Thus, the jurisdiction of the learned Single Bench was invoked under Article 227 of the Constitution of India. If that is so, the present appeal is not maintainable under Clause 10 of the Letters Patent. Reference may be made to the judgment



reported as Jogendrasinghji Vijaysinghji v. State of Gujarat, (2015) 9 SCC 1. The Court held as under:-

“18. the aforesaid authoritative pronouncement makes it clear as day that an order passed by a civil court can only be assailed under Article 227 of the Constitution of India and the parameters of challenge have been clearly laid down by this Court in series of decisions which have been referred to by a three-Judge Bench in Radhey Shyam; (2015) 5 SCC 423, which is a binding precedent. Needless to emphasise that once it is exclusively assailable under Article 227 of the Constitution of India, no intra-court appeal is maintainable.”

5. In the light of judicial pronouncement, the present L.P.A. is not maintainable. This Court in the case of ***Mohammad Ali vs. Md. Quamru Jamma, 2015 (4) BLJ 195 : 2015 (4) PLJR 323*** in identical circumstances it is held that L.P.A. is not maintainable. Taking note of these settled principle, the present Civil Review is not maintainable. Hon’ble Supreme Court in the case of ***Sanjay Kumar Agarwal v. State Tax Officer (1) & Anr.*** reported in ***2023 SCC OnLine SC 1406***,



laid 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 reargue 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.”

6. In view of the principle laid down by the Hon’ble Supreme Court, in the aforementioned decision, the present Civil Review stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

Manish/Durgesh

AFR/NAFR	NAFR
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