

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.252 of 2023

1. The Bihar Industrial Area Development Authority (BIADA), Patna, Bihar through its Chairman.
2. Chairman, Bihar Industrial Area Development Authority (BIADA)-Cum-Principal Secretary, Department of Industries, Patna, Bihar.
3. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna.
4. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Darbhanga.

... .. Petitioners.

Versus

1. M/s Ujjawal Chemicals Private Limited, M/S Ujjwal Chemicals Private Limited, a Company registered Under the Companies Act having its registered Office at Village-Chandauli, P.O. and P.S. Ujjiyarpur, District-Samastipur through its authorized Signatory Gautam Kumar (Male) aged about 40 Years, S/o Hare Ram Choudhary, Resident of Village Chandauli, P.O. and P.S. Ujjiyarpur, District-Samastipur.
2. M/s Shama Industries, a Proprietorship Concern having its Office at Village-Sadatpur, Post-Kolhua Paigambaspur, P.S.-Kathi, District-Muzaffarpur through its Proprietor, Shahjad Hashmi (Male), Son of Noorudin Hashmi aged about 32 Years, Resident of Village-Sadatpur, Post-Kolhua Paigambaspur, P.S.-Kathi, District-Muzaffarpur.
3. M/s Vindhvasini Industries, a Partnership Firm, having its Office at Plot No. 15(P), 17(P), Harpur Aloth, Industrial Area- Samastipur through its Partner, Ravi Dwitiya, (Male), aged about 43 Years, Son of Parshuram Singh, Resident of Ward No.4, Amirganj, P.S.-District-Samastipur.

... .. Opposite Parties.

Appearance :

For the Petitioners- BIADA : Mr. Ujjawal Bhushan, Advocate.

For the Opposite Parties : Mr. Brisketu Sharan Pandey, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

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

Date : 30-08-2024

The present Civil Review Petition has been filed to recall the order dated 12.09.2022 passed in C.W.J.C. No.12034 of 2022.



2. The aforementioned writ petition was argued by Mr. Devesh Shankaran and Mr. Pankaj Kumar Sinha, Advocates on record, for the respondents, whereas present Civil Review has been presented by Mr. Ujjawal Bhushan, Advocate. Civil Review is required to be filed by Advocate on record in the original writ petition in order to ascertain what was transpired on the date of disposal of the writ petition. On this sole issue, Civil Review No.252 of 2023 is liable to be dismissed. This practice was deprecated by the Hon'ble Supreme Court in the case of **Tamil Nadu Electricity Board and another Versus N. Raju Reddiar and another**, reported in (1997) 9 Supreme Court Cases 736 in which it is held as under:

“It is a sad spectacle that a new practice unbecoming and not worthy of or conducive to the profession is cropping up. Mr Mariaputham, Advocate-on-Record had filed vakalatnama for the petitioner-respondent when the special leave petition was filed. After the matter was disposed of, Mr V. Balachandran, Advocate had filed a petition for review. That was also dismissed by this Court on 24-4-1996. Yet another advocate, Mr S.U.K. Sagar, has now been engaged to file the present application styled as “application for clarification”, on the specious plea that the order is not clear and unambiguous. When an



appeal/special leave petition is dismissed, except in rare cases where error of law or fact is apparent on the record, no review can be filed; that too by the Advocate-on-Record who neither appeared nor was party in the main case. It is salutary to note that the court spends valuable time in deciding a case. Review petition is not, and should not be, an attempt for hearing the matter again on merits. Unfortunately, it has become, in recent time, a practice to file such review petitions as a routine; that too, with change of counsel, without obtaining consent of the Advocate-on-Record at earlier stage. This is not conducive to healthy practice of the Bar which has the responsibility to maintain the salutary practice of profession.”

3. Repeatedly, we have asked the learned counsel for the review petitioners as to what is error committed in the order dated 12.09.2022 passed in C.W.J.C. No.12034 of 2022. He could not apprise this Court.

4. Be that as it may, on pages 5/6 of the order dated 12.09.2022 passed in C.W.J.C. No.12034 of 2022 reads as under:

“In view of the aforesaid, petitioners undertaking is accepted and taken on record.



BIADA has no objection to the order being passed, as is so being passed in similarly situated cases to augment the industrial growth within the State of Bihar.

Petitioner's undertaking that he would revive the unit within six months and make it fully operational and functional, is accepted and taken on record.

Consequence of breach thereof stands explained through the learned counsel.

This Court would not hesitate to not only initiate proceedings of contempt for violating such an undertaking, but also direct the BIADA to take over the possession of the property for allotment to a third party in accordance with law.

Present petition stands disposed of in the aforesaid terms.

Interlocutory application, if any, shall also stand disposed of."

5. In view of the aforementioned admission, question of reviewing the order dated 12.09.2022 passed in C.W.J.C. No.12034 of 2022 is not warranted. There is no error apparent on the face of the record to meet the ingredients of Order 47 Rule 1 of the Code of Civil Procedure. The 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 the guidelines in paragraph-16, under what circumstances, Court can review its own order. They are 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.”

6. In the light of these facts and circumstances read with the aforementioned principles, the present Civil Review Petition stands dismissed with cost of Rs.5000/-(Rupees Five Thousand).

7. At this stage, learned counsel for the review petitioners seeks permission to withdraw the present Civil Review Petition.

8. Accordingly, the present Civil Review Petition stands dismissed as withdrawn. However, cost shall remain. Cost shall be remitted in the Patna High Court Legal Services Committee, Patna, within a period of four weeks from today.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

P.S./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	06.09.2024.
Transmission Date	NA

