

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.40 of 2023

In
SECOND APPEAL No.74 of 2022

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1. Ganga Mahto Son of Late Judagi Mahto Resident of Village- Dheebar, P.O.- Chak Nawada, P.S.- Pandarak, District- Patna.
 2. Uday Mahto, Son of Late Judagi Mahto Resident of Village- Dheebar, P.O.- Chak Nawada, P.S.- Pandarak, District- Patna.
 4. Most. Siya Devi, Wife of Late Nageshwar Mahto Resident of Village- Dheebar, P.O.- Chak Nawada, P.S.- Pandarak, District- Patna.
 5. Umesh Chandra Prasad Son of late Bhuneswar Mahto, Village - Dhiver, P.O. Chaknawada, P.S. NTPC, Barh, Distt. - Patna.
 6. Naresh Chand Prasad Son of Late Bhuneswar Mahto, Village - Dhiver, P.O. Chaknawada, P.S. NTPC, Barh, Distt. - Patna.
 7. Shanker Prasad Son of late Bhuneswar Mahto, Village - Dhiver, P.O. Chaknawada, P.S. NTPC, Barh, Distt. - Patna.
 8. Ajay Kumar Son of late Bhuneswar Mahto, Village - Dhiver, P.O. Chaknawada, P.S. NTPC, Barh, Distt. - Patna.

... .. Petitioner/s

Versus

- 1.1. Permanand Sharma Son of Late Nawal Kishore Sharma, Vill. - Dhiver, P.O. - Chaknawada, P.S. - NTPC, Barh, Dist. - Patna.
- 1.2. Awadhesh Sharma Son of Late Nawal Kishore Sharma, Vill. - Dhiver, P.O. - Chaknawada, P.S. - NTPC, Barh, Dist. - Patna.
- 1.3. Shyam Nandan Sharma Son of Late Nawal Kishore Sharma, Vill. - Dhiver, P.O. - Chaknawada, P.S. - NTPC, Barh, Dist. - Patna.
2. Umesh Prasad Sharma, Son of Late Ram Ratan Prasad Singh Resident of Village- Dheebar, P.O.- Chak Nawada, P.S.- Pandarak, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dhanendra Chaubey, Advocate Mr. Sahvind Kumar Sharma, Advocate
For the Opposite Party/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

10 05-12-2025

Heard learned counsel for the parties.

2. the present Civil Review is filed for reviewing the
Judgment and Order dated 10.01.2023 passed by this Court in



Second Appeal No. 74 of 2022.

3. It is submitted by the learned counsel for the petitioners that despite the substantial question of law involved, the Second Appeal was dismissed. He further submits that four substantial questions of law were raised before this Court in the Second Appeal but the Court has dismissed the same at the admission stage itself. He further submits that learned trial court and also the learned first appellate court have not considered the evidences (oral as well as documentary) of the parties without framing the correct issues and decided the issues in casual manner and the judgment passed by learned trial court as well as learned Appellate Court are bad in law and the judgment passed by this court is liable to be reviewed.

4. It is well-settled that the power of review is not an inherent power and must be exercised strictly within the contours of Section 114 read with Order-XLVII Rule-1 of C.P.C. A review is maintainable only on the limited grounds of (I) discovery of new and important matter or evidence which, after exercise of due diligence was not within the knowledge of the applicant or could not be produced earlier; (ii) mistake or error apparent on the face of the record, or (iii) any other sufficient reason which is analogues to the first two grounds, which results



in miscarriage of justice. It is well settled that a review cannot be invoked to rehear the matter, re-assess findings, or correct an erroneous decision on merits, nor can it serve as a disguised appeal.

5. The review court does not sit in appeal over its own judgment. A rehearing of the matter is impermissible in law. Review is not appeal in disguise. A review petition has a limited purpose. An error which is not self-evident and has to be detected by a process of reasoning, can hardly to be said an error apparent on the face of record.

6. The three Judges Bench of Hon'ble Supreme Court in the case of **Sri Ram Sahu (Dead) Through Lrs. & Ors. vs. Vinod Kumar Rawat & Ors.** reported in **2020 SCC Online SC 896** quoted para 22 to 35 of judgment in **State of Bengal and Ors. Vs. Kamal Sengupta and Anr.** Reported in **(2008) 8 SCC 612** and settled the law with respect to scope of review under Order -XLVII Rule- 1 C.P.C. In para 35 of the said judgment in **State of Bengal and Ors. Vs. Kamal Sengupta & Anr.** (Supra) the Hon'ble Supreme Court held as under:

“35. The principles which can be culled out from the abovenoted judgments are:

(i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a civil court under Section 114 read with Order 47 Rule 1 CPC. (ii) The Tribunal can review its decision on either of the grounds enumerated in



Order 47 Rule 1 and not otherwise.

(iii) The expression “any other sufficient reason” appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.

(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f).

(v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

(vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger Bench of the tribunal or of a superior court.

(vii) While considering an application for review, the tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

(viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court/tribunal earlier.”

7. Learned counsel for the petitioners is not able to point out any sufficient and just reasons to review the impugned judgment. It cannot be said that there is any error apparent on the face of proceedings which requires to review in exercise of powers under Order -XLVII Rule- 1 C.P.C.

8. Having heard the learned counsel for the petitioners and perused the impugned judgment dated 10.01.2023, after discussing the facts and law and the judgment of the learned



Trial Court as well as the Appellate Court, this court finds no ground to entertain the present civil review petition.

9. Hence, the instant Civil Review is devoid of substance and merit. Accordingly, this Court finds no error apparent on the face of record warranting any interference in the impugned Judgment dated 10.01.2023 passed in Second Appeal.

10. Accordingly, the Civil Review No. 40 of 2023, stands dismissed.

(Sunil Dutta Mishra, J)

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