

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.115 of 2024

In
Civil Writ Jurisdiction Case No.4501 of 2021

-
-
1. The State of Bihar through the District Magistrate-cum-Collector, Nawada, Bihar.
 2. The Deputy Collector Land Reforms, Rajauli, District- Nawada, Bihar,
 3. The Circle Officer, Akbarpur, District- Nawada.

... .. Petitioners

Versus

Kumar Gaurav Son of Late Jagdish Prasad @ Jagdish Prasad Gupta Resident
of Gaya Road, Bhadauni, Gondapur, P.S. and District- Nawada, Pin- 805110.

... .. Respondent

Appearance :

For the Petitioners	:	Mr. P.K Shahi, Advocate General Md. Nadim Seraj, GP-5
For the Respondent	:	Mr. Ranjan Kumar Dubey, Advocate Mr. Kumar Gaurav, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V JUDGMENT

Date : 11-04-2025

Heard Mr. P. K Shahi, learned Advocate General assisted by Md. Nadim Seraj, learned G.P-5 for the review applicants/petitioners and Mr. Ranjan Kumar Dubey assisted by Mr. Kumar Gaurav, learned counsel for the writ petitioner/respondent.

2. The petitioners have filed the instant application praying for review of the order dated 28.6.2023 passed in CWJC no.4501 of 2021 whereby this Court was pleased to allow the writ application in the following terms :-



“14. In the opinion of the Court, the consequence of the proceedings with respect to mutation is that the order of mutation passed by the Circle Officer in favour of the petitioner in Mutation Case no.555-R-27/2018-19, though was set aside by the D.C.L.R., Rajauli in Mutation Appeal no.28/2019-20, however, on the orders of the D.C.L.R. being set aside (impliedly on account of remand) by the Additional Collector in Mutation Revision Case no.21/2020-21, the order of mutation in favour of the petitioner stands today.

15. In view of the above, on learned counsel for the respondents being confronted with the facts that when there is a judgment and decree in favour of the vendors of the petitioner in the title suit filed by them as also there is an order of mutation in the petitioner's favour then under what circumstance, could the land in question be put in the list of land being described as 'Anabad Bihar Sarkar' and 'Anabad Sarvsadharan' and under what circumstances rent receipts were not being issued in favour of the petitioner, there was no response forthcoming.

16. This Court holds that in view of the judgment and decree dated 20.8.2018 and 1.9.2018 passed in Title Suit no.202 of 2013 by the learned Sub Judge VII, Nawada with respect to the land in question and wherein the State of Bihar through the Collector as also the Circle Officer were parties, the land of the petitioner could not be put in the list as enclosed with the letter dated 19.1.2016 of the Circle Officer, Akbarpur of the land described as Anabad Bihar Sarkar' and 'Anabad Sarvsadharan' and the same is



set aside to the extent that the petitioner's land is concerned.

17. This Court also holds that the land in question having been mutated in favour of the petitioner by an order passed by the Circle Officer in Mutation Case no.555-R-27/2018-19 and the order setting aside the same passed by the D.C.L.R. having itself been quashed by the Additional Collector, the order of mutation in favour of the petitioner remains and in such circumstances, the respondent authorities, on payment of rent by the petitioner cannot refuse to grant rent receipt in the petitioner's name.

18. It is directed that on payment of rent, the Circle Officer, Akbarpur, District Nawada (respondent no.8) shall issue rent receipt to the petitioner.

19. The writ application stands allowed with the above observations and directions."

3. The dispute in the writ application from which the instant case arises relates to land measuring an area of 1.22 acres, 1.01 acres and 2.20 acres under different *Khata* and plot numbers in *Mauza* Badail, Circle Akbarpur in the District of Nawada.

4. The land in question was purchased by the respondent for valuable consideration by a registered sale deed dated 24.7.2018 from Krishna Prasad Bhojpuri and Vishwanath Prasad Bhojpuri. As in the revisional survey *khatian* with respect to the land in question, the name Bihar Sarkar was



entered and illegal possession of one Triveni Prasad Singh was shown in the remark column, the vendors of the respondent filed Title Suit no.202 of 2013 in the Court of learned Sub Judge VII, Nawada for a declaration that the revisional survey entry in the *khatiyān* with respect to the land in question was wrong and not binding upon them as also for confirmation of their possession. The title suit was decreed in favour of the respondent's vendors by judgment dated 20.8.2018 and decree dated 1.9.2018. It was during pendency of the said suit that the respondent herein purchased the land in question by a registered sale deed dated 24.7.2018.

5. On account of the suit having been decreed, the name of respondent was mutated but as the Revenue Authority were not correcting the record of rights, he was not able to sell the land. The respondent thus filed CWJC no.12635 of 2019 which was dismissed by the learned Single Judge vide order dated 25.11.2020 mainly on the ground of the State of Bihar having preferred Title Appeal no.27 of 2019 which was pending. LPA no.129 of 2021 preferred by the respondent was heard analogous with LPA no.582 of 2021, the appellants in both the appeals being aggrieved for the reason that the sale deeds were not being registered. This Court by its common judgment dated



7.11.2022 allowed both the appeals directing the Registering Authority to register the land after being satisfied that the documents offered on behalf of the appellants therein satisfy the requirements and formalities.

6. A letter bearing no.159 dated 19.1.2016 was sent by the Circle Officer, Akbarpur to the Sub-Registrar, Rajauli. Enclosed with the said letter was a list of plots belonging to the Government in the revenue village under Circle Akbarpur. The list contained the land of the respondent measuring an area of 1.01 acres (in R.S. Plot no.782) and 1.22 acres (in R.S. Plot no.806), both in R.S. Khata no.279.

7. It was the case of the respondent that in the Title Suit no.202 of 2013 filed by the vendors of the respondent, besides the heirs of the *Avaidh Dakhalkar* ie Triveni Prasad Singh, the State of Bihar through the Collector, Nawada as also the Circle Officer, Akbarpur were also parties. Thus the judgment and decree in the suit was binding on them. Later, pursuant to the order passed in Mutation Case no.555-R-27/2018-19, the name of the respondent was mutated with respect to the land in question. Subsequently on order dated 24.11.2020 being passed by the D.C.L.R., Rajauli in Mutation Appeal no.28 of 2019-20, the order of the Circle Officer was set



aside, however on a revision having been preferred, pursuant an order dated 10.8.2021 passed in Mutation Revision Case no.21/2020-21, the Additional Collector, Nawada was pleased to set aside the order passed by the D.C.L.R., Rajauli, thus restoring the order of mutation passed in favour of the respondent by the Circle Officer, Akbarpur. On the case being remanded, the D.C.L.R., Rajauli closed the matter holding that in view of the pendency of the title suit, it would not be proper to pass any orders in the said case.

8. Taking into consideration the above facts as also that (1) the vendors of the respondent had judgment and decree (in T.S no.202 of 2013) in their favour wherein the State of Bihar as also heirs of the *Avaiddh Dakhalkar* ie Triveni Prasad Singh were parties; (2) the Circle Officer, Akbarpur had passed order for mutation of the respondent's name in Mutation Case no.555-R-27/2018-19; (3) the order of the D.C.L.R., Rajauli reversing the order passed by the Circle Officer, Akbarpur had itself been set aside; this Court allowed the writ application (CWJC no.4501 of 2021) in the terms stated herein above and directing that on payment of rent by the respondent, the Circle Officer, Akbarpur, District Nawada shall issue rent receipt to the respondent.



9. Learned Advocate General appearing for the petitioners submitted that after passing of the order dated 28.6.2023 in CWJC no.4501 of 2021, the Circle Officer, Akbarpur by his letter no.1260 dated 29.9.2023 requested the District Magistrate, Nawada to enquire into the exhibits of Title Suit no.202 of 2013 which had been filed by the vendor of the respondent. A four men enquiry team under the Chairmanship of the Land Reforms Deputy Collector, Rajauli was formed and they submitted their detailed enquiry report vide letter no.680 dated 21.11.2023. It is submitted that as per the report, it appears that the rent receipt bearing no.X/64 120345 is forged and the *jamabandi* number mentioned on the receipt is also not existing in the name of the mother of the respondent's vendor. It was further submitted that even the certified copy of the *jamabandi* return was forged and fabricated and the so called certified copy of the *jamabandi* return was prepared and delivered on a date which was Sunday, thus clearly showing that the same was not genuine. It was submitted that the judgment and decree in T.S. no.202 of 2013 had been obtained on the basis of forged and fabricated documents, neither the respondent nor the respondent's vendor have ever cultivated the land nor do they have possession over the same. Their only intention is to



grab Government land and to sell the same to others. It was submitted that the Circle Officer, Akbarpur accepted his error in allowing the mutation case filed by the respondent and therefore requested the D.C.L.R., Rajauli by his letter dated 23.11.2018 to cancel the *jamabandi* created in favour of the respondent. It was further submitted that Title Appeal no.27 of 2019 has been preferred by the State of Bihar against the judgment and decree passed in Title Suit no.202 of 2013 and the same is pending. The decree having been obtained by playing fraud on Court, the same is a nullity.

10. In the facts of the case, it was submitted on behalf of the petitioners that the judgment dated 28.6.2023 allowing CWJC no.4501 of 2021 be reviewed and the application be allowed. In support of the contention, reliance has been placed on the judgments of the Hon'ble Supreme Court in the cases of **Raja Shatrunji vs. Mohammad Azmat Azim Khan & Ors.; (1971) 2 SCC 200, Board of Control for Cricket in India & Anr. vs. Netaji Cricket Club & Ors; (2005) 4 SCC 741 and Jagmohan Singh vs. State of Punjab & Ors.; (2008) 7 SCC 38.**

11. In response, Shri Ranjan Kumar Dubey, learned counsel for the respondent submitted that as mentioned under



Order XLVII of the Code of Civil Procedure ('CPC' in short), the scope of review is very limited. None of the conditions mentioned therein arise in the instant case. The petitioners are relying on certain facts brought on record by them which have been created by them almost six months after passing of the order, review of which is sought. As held in the judgment in the case of **State of West Bengal & Ors. vs. Kamal Sengupta & Anr.; (2008) 8 SCC 612**, the Tribunal/Court must confine its adjudication with reference to the material which was available at the time of the initial decision. Further in reference to the said judgment, it was submitted that even discovery of new or important matter or evidence is not a sufficient ground for review but the party seeking review has also to show that such matter or evidence was not within its knowledge and even after exercise of due diligence, the same could not be produced before the Court earlier. Further reliance was placed on the judgment in the case of **Lily Thomas vs. Union of India; AIR 2000 SC 1650** to submit that the power of review can be exercised for correction of a mistake and not to substitute a view.

12. Referring to the judgment in the case of **Vijay Kumar Prasad vs. the State of Bihar & Ors.; 2017 (1) PLJR**



818, it is submitted that no person can be a judge in his own matter. Learned counsel submits that while on one hand the State was a party in the suit and as per their own showing, they have preferred an appeal which is pending, at the same time they are claiming to have enquired into the matter and arrived at a finding of the documents produced by the respondent's vendor in the title suit being forged. It is submitted that the fact as to whether any document is forged or not can only be decided by a competent Civil Court and not the party/State themselves. Unless the judgment and decree in favour of the vendor of the respondent is reversed by the lower appellate Court, the State has no justification to contend that the same has been obtained on the basis of forged documents. It is submitted that the review application is fit to be dismissed on the ground of limitation also.

13. In support of his contentions, learned counsel for the respondent has placed reliance on the judgment dated 31.7.2023 passed in Civil Misc. Review Application no.41 of 2023 (**M/s Vaid Organics and Chemical Industries Ltd. Lko. Thru. Its Director Swarn Singh vs. State of U.P. Thru. Secy. Deptt. Of Industries U.P. Civil Sectt. Lko. and Ors.**)

14. Heard learned counsel for the parties and perused



the material on record. Having perused the contents of the order dated 28.6.2023, review of which is sought together with the grounds raised in the instant review application, it would transpire that what the petitioners are primarily relying upon are the contents of an enquiry report, enquiry of which was conducted subsequent to the passing of the judgment under review. At the same time, it is not in dispute that in the Title Suit no.202 of 2013 filed by the respondent's vendor both the State of Bihar as also the heirs of the *Avaidh Dakhalkar* were parties and the suit was decreed in favour of the respondent's vendor. Further, it is also not in dispute that the Circle Officer, Akbarpur passed order for mutation of the respondent's name in the mutation case.

15. The petitioners in their prayer for review of the order dated 28.6.2023 mainly relied on the fact that subsequent to the said order, at the instance of the Circle Officer, Akbarpur, a four member enquiry team was constituted which on enquiry submitted their report to the effect that the documents/exhibits on the basis of which the respondent's vendor had got the judgment and decree in the title suit in his favour, were forged. In addition, review was being sought also on the ground that Title Appeal no. 27 of 2019 had been preferred by the



petitioners/State of Bihar against the judgment and decree passed in Title Suit no.202 of 2013.

16. The grounds for filing a review has been mentioned in Order XLVII Rule 1 of the CPC which reads as follows :-

“1. Application for review of judgment.-(1)

Any person considering himself aggrieved,-

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate



Court the case on which he applies for the review.

[Explanation-. The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.]”

17. The Hon’ble Supreme Court in the case of **Parsion Devi & Ors. vs. Sumitri Devi & Ors.; (1997) 8 SCC 715** observed that it was well settled that review proceedings have to be strictly confined to the ambit and scope of Order XLVII Rule 1 of the CPC. It held as follows :-

“7. It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In Thungabhadra Industries Ltd. v. Govt. of A.P. this Court opined:

“what, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an 'error apparent on the face of the record'). The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an 'error apparent on the face of the record', for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous



decision and a decision which could be characterised as vitiated by 'error apparent'. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error."

18. As to what is an error apparent on face of the record came to be decided by the Hon'ble Supreme Court in the case of **Satyanarayan Laxminarayan Hegde & Ors. vs. Mallikarjun Bavanappa Tirumale; AIR 1960 SC 137** wherein it held as follows :-

".....An error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. As the above discussion of the rival contentions show the alleged error in the present case is far from self evident and if it can be established, it has to be established by lengthy and complicated arguments. We do not think such an error can be cured by a writ of certiorari according to the rule governing the powers of the superior court to issue such a writ."

19. Coming to the judgments relied upon by learned Advocate General appearing for the petitioners, so far as the judgment in the case of **Raja Shatrunji (supra)** is concerned, the Hon'ble Supreme Court took note of the fact that the law in



question therein had already come into effect on 25.5.1953, however when the matter was being heard by the Allahabad High Court on 27.11.1962, the amendment had not come into the statute book. The High Court, therefore, was of the opinion that relief should be granted under Order XLVII of the CPC on the principles of review defined by the Court and use of the words 'any other sufficient reason' in Order XLVII.

20. In its judgment in the case of **Netaji Cricket Club** (*supra*), the Hon'ble Supreme Court held that for filing an application for review, Order XLVII Rule 1 of the CPC provides that the same would be maintainable not only upon discovery of a new and important piece of evidence for when there exists an error apparent on the face of the record but also if the same is necessitated on account of some mistake or for any other sufficient reason. It held that sufficient reason is wide enough to include a misconception of fact or law by a Court.

21. In the case of **Jagmohan Singh** (*supra*), the Hon'ble Supreme Court held that Order XLVII Rule 1 CPC does not preclude the High Court to take into consideration any subsequent event. It held that if imparting of justice in a given situation is a goal of the judiciary, the Court may take into consideration, on rare occasions, the subsequent events.



22. So far as the facts of the instant case is concerned, the only two subsequent events being contended on behalf of the petitioners is firstly that in an enquiry conducted by the State Authorities themselves, some exhibits filed by the respondent's vendor in Title Suit no.202 of 2013 were found to be forged and secondly that a title appeal has been preferred by the State against the judgment and decree passed in the title suit. The State themselves being parties/defendants in the title suit which was decreed in favour of the respondent's vendor cannot set at naught the effects of the judgment and decree against them on the basis of an enquiry conducted by their Officers. The judgment and decree can only be set aside in an appeal which even as per the case of the State, they have preferred and the same is pending.

23. At this stage, it would also be relevant to refer to the judgment in the case of **Kamal Sengupta** (*supra*) wherein the Hon'ble Supreme Court after referring to the provision of review under Order XLVII of the CPC and a number of other judgments in the case of Rajah Kotagiri Venkata Subbamma Rao vs. Rajah Vellanki Venkatrama Rao; (1899-1900) 27 IA 197, Hari Sankar Pal vs. Anath Nath Mitter; 1949 FCR 36, Moran Mar Basselios Catholicos vs. Mar Poulouse Anthanasius;



AIR 1954 SC 526, Thungabhadra Industries Ltd. vs. Govt. of A.P.; AIR 1964 SC 1372, Parsion Devi vs. Sumitri Devi; (1997) 8 SCC 715, Haridas Das vs. Usha Rani Banik; (2006) 4 SCC 78, Aribam Tuleshwar Sharma vs. Aribam Pishak Sharma; (1979) 4 SCC 389, K. Ajit Babu vs. Union of India; (1997) 6 SCC 473, Ajit Kumar Rath vs. State of Orissa; (1999) 9 SCC 596, State of Haryana vs. M.P. Mohla; (2007) 1 SCC 457 and Gopal Singh vs. State Cadre Forest Officers' Assn.; (2007) 9 SCC 369, proceeded to state the grounds for review and also held in paragraph no.35 (vii) that 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. Paragraph no. 35 of **Kamal Sengupta** (*supra*) reads as follows :-

“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 a 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.

(emphasis supplied)

24. Thus from the facts stated herein above, the petitioners not having been able to point out any error apparent on the face of the order dated 28.6.2023 and relying only on the



enquiry report of the State Authorities, in an enquiry conducted after the order (of which review is sought) was passed and the pendency of the title appeal, in the opinion of the Court, the petitioners have not made out a case for review of the order dated 28.6.2023.

25. The Court finds no merit in the instant review application and the same is dismissed.

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	14.02.2025
Uploading Date	11.04.2025
Transmission Date	

