

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.263 of 2023

In
SECOND APPEAL No.8 of 2019

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Sureshwari Prasad Singh S/o Late Muneshwar Prasad Singh Village- Gundi,
P.S.- Barhara, District- Bhojpur

... .. Petitioner/s

Versus

1. Nareshwar Prasad Singh S/o Late Muneshwar Prasad Singh Vill.- Gundi,
P.s.- Barhara, Distt.- Bhojpur.
2. Vijay Kumar Singh S/o Late Muneshwar Prasad Singh Vill.- Gundi, P.s.-
Barhara, Distt.- Bhojpur.
3. Lakshuman Singh S/o Late Bindeshwar Prasad Singh Vill.-Dhaturi Tola,
P.s.- Bairiya, Distt.- Baliya (U.P.)
4. Vijay Kumar Singh S/o Lakshman Singh Vill- Dhatu Tola, P.s.- Bairiya,
Distt.- Baliya (U.P.)
5. Vijay Kumar Singh S/o Lakshman Singh Vill- Dhatu Tola, P.s.- Bairiya,
Distt.- Baliya (U.P.)
6. Uma Devi W/o Lakshman Singh Vill.- Dhatu Tola, P.s.- Bairiya, Distt.-
Baliya (U.P.)
7. Pramila Devi D/o Lakshman Singh Vill.- Dhatu Tola, Ps.- Bairiya, Dist.-
Baliya (U.P.)
8. Shashikala Devi D/o Lakshman Singh Vill.- Dhatu Tola, P.S.- Bairiya,
Distt.- Baliya (U.P.)
9. Asha Devi D/o Lakshman Singh Vill.- Dhatu Tola, P.S.- Bairiya, Distt.-
Baliya (U.P.)
10. Saraswati Devi W/o Vijay Pratap Singh Vill.- Beyasi, P.s.- Baliya, Distt.-
Baliya (U.P.)
11. Pratima Devi W/o Ram Murti Singh Vill.- Narawara, P.S.- Shivahar, Distt.-
Shivahar (Bihar)
12. Vijay Kumar Singh S/o late Birendra Pratap Singh, Resident of Village -
Baliapur Estate, P.S. - Madhban, Dist. East Champaran. Present Address -
Vill - Gurudig, P.S. - Barhara, District- Bhojpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Dayanand Singh, Advocate
		Mr. Dhananjay Kashyap, Advocate
		Mr. Nagadeo Choubey, Advocate
For the Opposite Party/s :		Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA



ORAL ORDER

4 05-12-2025 Heard learned counsel for the petitioner on the point of limitation.

2. The delay in filing the review petition is condoned.

3. The petitioner has filed the present review petition seeking review of the order dated 26.06.2023 passed in Second Appeal No. 08 of 2019, whereby and whereunder the second appeal filed by the petitioner has been dismissed.

4. Learned counsel for the petitioner submits that the grounds mentioned for review are discovery of new material and a piece of evidence, i.e., khatian showing C.S. Khatna No. 1321 situated a Mauza Gundi, Thana Barhara, District - Bhojpur in the name of Late Nathuni Prasad Singh, who was grandfather of the plaintiff and as such the said property was ancestral to the plaintiff and other defendants and therefore, any transfer made by the father of the petitioner/plaintiff in the name of defendants/respondents is in the teeth of law of inheritance and therefore illegal. Learned counsel further submits that this document was not in the knowledge of the review petitioner and it was an important piece of evidence and it was not considered by the subordinate courts while passing order in Title Suit No. 63 of 1996 and Title Appeal No. 120 of 2016. Therefore, this Court needs to review its order and revive the Second Appeal



No. 08 of 2019.

5. The law on the point of review has been settled. In the case of ***Sanjay Kumar Agarwal v. State Tax Officer***, reported in ***2023 SCC OnLine SC 1406***, the Hon'ble Supreme Court elaborately considered under what circumstances civil review could be entertain. In this regard eight principles have been laid down by the Hon'ble Supreme Court which are as under:-

“(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 present case, the review is not maintainable for the reasons mentioned hereinafter. The claim of the petitioner is that he was not having knowledge about the khatiyān and could not bring this fact on record of learned trial court or the first appellate court despite due diligence. The petitioner has brought on record the certified copy of khatiyān of cadestral survey. When a khatiyān is published it is considered to be a notice to public at large and any claim of the petitioner that he could not bring this document on the record before the learned subordinate courts is without any merit. It appears the plea has been taken only to make a ground for review of the orders of this Court dated 26.06.2023. Furthermore, the second appeal was dismissed as the court found that no substantial question of law was involved in the matter and as against the concurrent findings of two subordinate courts, no perversity or manifest error apparent on face of record were found. Therefore, for review of its order, this Court is not



persuaded by the argument of the learned counsel for the petitioner about the discovery of new fact. What the petitioner wants this Court to do is to re-examine the entire case on the ground of discovery of so called new evidence. But the said document was available all along and if the same was not produced before the courts below during relevant time, the petitioner cannot claim it to be a new discovery entitling him to seek review.

7. Accordingly, finding no merit in the present review petition the same is dismissed.

(Arun Kumar Jha, J)

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