

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.199 of 2022
In
SECOND APPEAL No.17 of 2015

1. Ran Vijay Kumar @ Ranvijay Kumar Gupta Son of Late Rameshwar Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
2. Bhanu Pratap Gupta son of late Rameshwar Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
3. Sanjiv Kumar son of late Rameshwar Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
4. Anuj Kumar son of late Rameshwar Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.

... .. Petitioner/s

Versus

1. Sanjay Kumar son of Ganesh Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
2. Gita Devi wife of Ganesh Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
3. Sameer Kumar son of Ganesh Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
4. Sachine Kumar son of Ganesh Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
5. Sandeep Kumar son of Ganesh Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
6. Amritheshwar Prasad son of Late Sakaldeo Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
7. Most. Asha Devi W/o Late Vijay Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
8. Rahul Kumar S/o Late Vijay Kumar Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
9. Motilal Prasad son of Late Narain Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
10. Radhey Shyam Prasad son of Late Narain Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
11. Arun Kumar Prasad son of Late Narain Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
12. Mithilesh Kumar minor son of Sakaldeo Prasad, the father and natural



- guardian, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
13. Kamlesh Kumar minor son of Sakaldeo Prasad, the father and natural guardian, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
 14. Rakesh Kumar son of Rajendra Prasad, Resident of Village Pathkhauri, Post Office Malkauri, Police Station Bagaha, District - West Champaran.
 15. Indu Devi wife of Harendra Prasad Gupta, Resident of Village Narainpur, Police Station Bagaha, District - West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chandra Kant, Advocate
Mr. Vaibhav Kr. Jha, Advocate
Ms. Shristi, Advocate
Ms. Karnika, Advocate
Mr. Navin Kumar, Advocate
Mr. Ravi Bhushan Bharat, Advocate

For the Opposite Party/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
C.A.V. JUDGMENT**

Date : 16-01-2026

1. This review application has been filed under Order XLVII, Rule 1 of the Code of Civil Procedure, 1908 (hereinafter referred to as "C.P.C.") against the judgment dated 02.08.2022 passed by this Court in Second Appeal No.17 of 2015 (hereinafter referred to as "impugned judgment") which was dismissed on the ground that no substantial question of law arose for consideration in the second appeal filed by the appellants.

2. Heard learned counsel for the petitioners.

3. The learned Trial Court dismissed the suit bearing Title Partition Suit No.94 of 1984 on contest filed by



plaintiffs *vide* judgment dated 30.08.1996 and decree dated 18.09.1996. The learned First Appellate Court *vide* judgment dated 01.11.2014 also dismissed the appeal on contest bearing Title appeal No.76 of 1996 filed by the appellant nos.1 to 5/ plaintiffs in which appellant nos.6 to 9, who were defendant nos. 9 to 12 in the learned Trial Court and respondent nos. 7 to 10 in the appeal, were transposed in the said appeal on their prayer that appellant nos. 1 to 5 have their interest to contest the appeal.

4. The Second Appeal No.17 of 2015 filed by the petitioners herein has been dismissed by this Court *vide* judgment dated 02.08.2022. This Court after considering the submission on behalf of the appellants, on perusal of judgment of both the Courts i.e. learned Trial Court and learned First Appellate Court, and the materials on record held that the findings are based upon appreciation of evidence on record and there is no perversity or unreasonableness in the finding. It was observed that the First Appellate Court is a final fact finding authority and in absence of demonstrated perversity in its findings, interference by this Court in the Second Appeal was not warranted. Aggrieved by the said dismissal of Second Appeal filed by the appellants/petitioners, the appellants/



petitioners have preferred this Civil Review.

5. Learned counsel for the petitioners submitted that the impugned judgment suffers from error apparent on the face of the record and has been passed with material irregularity in exercise of its jurisdiction. It is submitted that this Court failed to consider that respondent nos. 7 to 10 who were defendant nos. 9 to 12 (sons of defendant no.2) upon transposition as appellant nos.6 to 9, petitioners herein, acquired all rights of the plaintiffs, including the right to seek amendment of the plaint filed by the plaintiffs at any stage and rejection of their amendment petitions dated 18.09.2009 and 13.10.2014 by the learned First Appellate Court is illegal and not sustainable in law. It is further submitted that the learned First Appellate Court held that the suit property in Schedule-II is joint property rather it is separate property of contesting respondent no.1 and his descendants and thereby reversed the finding of the learned Trial Court that the suit property is joint family property which is erroneous in law. Therefore, it is submitted that the impugned judgment suffers from manifest errors apparent on the face of the record and warrants review.

6. Learned counsel for the petitioners has referred the judgment of Hon'ble Full Court of this Court in the case of



High Court of Judicature at Patna v. K.K. Chaubey reported in ***2015 (4) PLJR 328*** particularly paragraph no.32 on the scope of review which is reproduced hereinbelow:-

“32. The law, on the subject of review, may, in the light of the discussions held, as a whole, be summarized thus:—

(i) Ordinarily, a court or a tribunal cannot review its order or decision if the statute does not confer on the court or the tribunal, as the case may be, the power to review its own order. This apart, whatever limitations are imposed by a statute, while conferring the power of review on a court or a tribunal, the court or the tribunal, as the case may be, must adhere to the limitations, which the relevant statute may impose on the exercise of such power. Section 114 CPC, which embodies the substantive power of review of a civil court, does not impose any limitations on the court's power to review its order or decision; yet the power of review even by a civil court cannot be unguided and uncanalised, for, Order 47, Rule 1 circumscribes the court's power of review.

(ii) Though, at one point of time, it was considered to be a rule of universal application that review by a court of its order is not possible except on three prescribed grounds, namely, (i) discovery of new and important matter or evidence, which, after the exercise of due diligence, was not within the applicant's knowledge or could not be produced by him at the time, when the decree or order was passed, and (ii) mistake or error apparent on the face of the record, or (iii) any such sufficient ground, which is analogous to the two grounds aforementioned, the subsequent development of law, on the subject of review, has shown that the grounds referred to, namely, that any sufficient ground must be analogous to the two sufficient grounds aforementioned is no longer a rule of universal application.

(iii) One of the cases, which has helped in the expansion of the court's power to review its order is the case of Lily Thomas (supra)



inasmuch as Lily Thomas (supra) ruled that ordinarily, the power of review, being a creature of statute, cannot be exercised as an inherent power, yet such technicalities of law may have to be bent, in an appropriate cases, for the purpose of correcting an order (sic— error?) committed by the court if such an error arises out of a presumption of fact, which was non-existent, and when the court finds that its refusal to review its own error would cause, or has caused, grave miscarriage of justice.

(iv) It is essentially the principle behind the doctrine of “actus curiae neminem gravabit”, which has made the court hold, in Municipal Board, Pratabgarh (supra), that when a court corrects and rectifies an error, it restores the rule of law and not defeat it. Even Rajesh D. Darbar v. Narasingrao Krishnaji Kulkarni, reported in (2003) 7 SCC 219, recognises that in an exceptional case, a court may have to review its order by invoking the doctrine of “actus curiae neminem gravabit”.

7. This Court has given anxious consideration to the submissions advanced on behalf of the petitioners, perused the materials on record and considered the settled principles governing the scope of review jurisdiction.

8. At the outset, it is required to be noted that the scope of review under Order XLVII Rule 1 of the C.P.C. is extremely limited. A judgment may be reviewed only on discovery of new and important matter or evidence, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason analogous thereto. A review proceeding cannot be permitted to be used as an appeal in disguise, nor can it be invoked for rehearing the matter on



merits or for re-appreciation of evidence already considered and adjudicated upon.

9. The Hon'ble Supreme Court in **S. Murali Sundaram v. Jothibai Kannan & Ors.** reported in (2023) 13 SCC 515 has held with respect to the scope of the review application as under:

“16. While considering the aforesaid issue two decisions of this Court on Order 47 Rule 1 read with Section 114 CPC are required to be referred to? In Perry Kansagra v. Smriti Madan Kansagra, (2019) 20 SCC 753 this Court has observed that while exercising the review jurisdiction in an application under Order 47 Rule 1 read with Section 114 CPC, the Review Court does not sit in appeal over its own order. It is observed that a rehearing of the matter is impermissible in law. It is further observed that review is not appeal in disguise. It is observed that power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. It is further observed that it is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy has been finally decided.

17. After considering a catena of decisions on exercise of review powers and principles relating to exercise of review jurisdiction under Order 47 Rule 1 CPC this Court had summed up as under: Perry Kansagra v. Smriti Madan Kansagra, (2019) 20 SCC 753] , SCC pp. 768-69, para 15.1)

“15.1. ‘33. ... “ ... (i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of



Order 47 Rule 1 CPC.

(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit.” ’ (As observed in : Inderchand Jain v. Motilal, (2009) 14 SCC 663, p. 675, para 33)”

It is further observed in the said decision that an error which is required to be detected by a process of reasoning can hardly be said to be an error on the face of the record.

18. *Shanti Conductors (P) Ltd. v. Assam SEB, (2020) 2 SCC 677 : (2020) 2 SCC (Civ) 788, it is observed and held that scope of review under Order 47 Rule 1 CPC read with Section 114 CPC is limited and under the guise of review, the petitioner cannot be permitted to reargue and reargue questions which have already been addressed and decided. It is further observed that 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 under Order 47 Rule 1 CPC.”*

10. It is well-settled that an error which is not self-



evident and which requires a long-drawn process of reasoning to establish cannot be said to be an error apparent on the face of the record. The impugned judgment of this Court in Second Appeal has recorded clear reasons for declining interference, holding that the findings of the learned First Appellate Court were based on appreciation of evidence and suffered from neither perversity nor unreasonableness, and that no substantial question of law arose for consideration.

11. Moreover, on perusal of the judgment dated 11.11.2014 passed by the learned First Appellate Court and considering the facts and circumstances of the instant review application, it is explicit that the learned First Appellate Court has duly addressed and determined on the point of amendment in the plaint with respect to the transposed defendants on merit of the case.

12. In the instant review application, it is evident that the petitioners are essentially seeking a re-consideration of the findings recorded by this Court in the Second Appeal as well as the findings of the learned First Appellate Court on question of facts and law. The issues sought to be raised pertain to appreciation of evidence, burden of proof, maintainability of amendment at the appellate stage and the manner in which the



learned First Appellate Court dealt with the findings of the learned Trial Court. Such grounds, even if assumed to be arguable, do not constitute an error apparent on the face of record so as to attract the limited jurisdiction of this Court in civil review.

13. In view of the foregoing discussion, this Court is of the considered opinion that none of the grounds urged in the review application satisfies the statutory parameters laid down under Order XLVII Rule 1 of the C.P.C. The petitioners have failed to point out any error apparent on the face of the record or any other sufficient reason warranting interference with the judgment under review. Consequently, the review petition is devoid of merit and is liable to be dismissed.

14. Accordingly, the instant civil review is dismissed.

15. There shall be no order as to costs.

(Sunil Dutta Mishra, J)

Ritik/-

AFR/NAFR	NAFR
CAV DATE	09.01.2026
Uploading Date	16.01.2026
Transmission Date	NA

