

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Civil Review No. 32 of 2023

1. Deodhari Sao
2. Bhuneshwar Sao
3. Bindishwar Sao
4. Madan Sao

Sl. Nos. 1 to 4 are sons of Bisun Sao, All residents of Village Nawalsahi,
P.O. Nawalsahi, P.S. Markacho, District Koderma

.... Petitioners

Versus

1. Most. Gharma, wife of Late Dular Chand Sao
2. Chetlal Sao, son of Late Dular Chand Sao
Both residents of Village Nawalsahi, P.O. Nawalsahi, P.S. Markacho,
District Koderma
3. Premlata Devi @ Prema Devi, daughter of Late Dular Chand Sao, wife of
Dwarika Sao, resident of Village Nawalsahi, P.O. Nawalsahi,
P.S. Markacho, District Koderma, at present resident at Village and P.O.
Bagado via Domchanch, P.S. Koderma, District Koderma
4. Uma Devi, daughter of Late Dular Chand Sao, wife of Noman Sao,
resident of Village Nawalsahi, P.O. Nawalsahi, P.S. Markacho, District
Koderma, at present resident at Village Nawagarh, P.O. Nawagarh,
P.S. Koderma, District Koderma
5. Kalawati Devi @ Kalia Devi, daughter of Late Dular Chand Sao, wife of
Indradeo Sao, resident of Village Nawalsahi, P.O. Nawalsahi, P.S.
Markacho, District Koderma, at present resident at Goriyadih, P.O. Dhab,
P.S. Koderma, District Koderma
6. Mohan Sao, son of Late Tipan Sao, resident of Village Nawalsahi, P.O.
Nawalsahi, P.S. Markacho, District Koderma

.... Opp. Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : Mr. Indrajit Sinha, Advocate
Ms. Ashwini Priya, Advocate

For the Opposite Parties : Mr. Rajesh Kumar, Advocate
Mr. Amit Kumar, Advocate
Mr. Manindra Kumar Sinha, Advocate

08/17.04.2026 Heard learned counsel for the petitioners and learned counsel for the opposite parties.

2. This civil review petition has been filed for review of judgment dated 16.01.2023 passed by this Court in Second Appeal No.135 of 2012, whereby the said second appeal has already been dismissed.
3. Learned counsel appearing on behalf of the petitioners submits that there is an apparent error in deciding the second appeal and in view of that, this civil review petition has been preferred. She submits that in the second appeal, this court has failed to appreciate that two of the learned courts committed an error in law as well as in the fact in dismissing the suit of the

plaintiff. On these grounds, she submits that the review petition may kindly be allowed.

4. Learned counsel appearing on behalf of the opposite parties opposed the prayer and submits that the second appeal has been decided on merit and there are concurrent finding of the two of the learned courts and thereafter, the second appeal. Further, entire aspects have been considered and then only the second appeal was dismissed. In the judgment of the second appeal passed by this court, after discussing the entire aspects as well as the materials and the evidences, this court found that the judgment of the learned trial court as well as learned appellate court were passed considering the entire aspects and after considering oral as well as documentary evidences and thereafter, they have been pleased to hold that revisional record of right was recorded in the year 1967 and the suit was instituted in the year 1996 after more than 28 years and considering the judgment passed in ***Dwarika Sonar & Others vs. Most. Bilguli & Others*** reported in **2003 (2) JLJR 708** on the point of limitation, adverse possession, waiver, estoppels and acquiescence, has been pleased to dismiss the suit. This court has also considered in the second appeal that the appellate court has also framed the point and thereafter, passed the said order and has elaborately dealt by the learned first appellate court in para 14 of the said judgment. The first appellate court has found that the plaintiff has failed to produce any Jamabandi, rent receipt and Hukumnama of the defendants was affirmed by grant of rent receipt. The defendants filed the receipt upto the year 2001, whereas the plaintiffs filed the rent receipt only for the year 1987. It is well known that onus lies upon the person, who is claiming the possession in title.

5. Petitioners herein, have failed to prove before the learned trial court as well as learned first appellate court and both the judgments have been passed considering the oral as well as documentary evidence. Considering the concurrent findings and after discussing entire facts, the second appeal was decided. There is no apparent error on the face of the record. It is well settled that the review jurisdiction cannot be exercised in a routine manner. The judgment of the second appeal is in nature of finality and in the present review petition, the entire facts have been sought to be challenged which is not permissible under the review jurisdiction.

6. In ***State of West Bengal & Others Vs. Kamal Sengupta***

reported in **(2008) 8 SCC 612**, the term 'mistake or error apparent' has been discussed in the following words:

"The term 'mistake or error apparent' by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/tribunal on a point of fact or law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision".

In view of the above discussions, reasons and analysis, the review petition is dismissed.

(Sanjay Kumar Dwivedi, J.)

Anit

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