

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.165 of 2015

In
MA 280 of 2014

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Shri Lalan Singh

.... Petitioner/s

Versus

Sri Prithvi Narayan Pandey & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Baidya Nath Thakur

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 06-05-2015 Heard Sri Baidya Nath Thakur, learned counsel for the
petitioner.

The present petition was filed with a prayer to recall the order dated 5.12.2014 whereby the M.A. No. 280 of 2014 was dismissed on the ground that it was not maintainable keeping in view the suit value and the Appeal value. In the memo of Appeal the suit value was mentioned as Rs. 250/-.

Learned counsel for the petitioner submits that due to bona fide mistake on the part of the learned counsel for the petitioner in the memo of appeal inadvertently instead of mentioning the suit value as Rs. 30 Lakhs, it was mentioned as Rs. 250/-. He submits that earlier a Title Suit vide Title Suit No. 135 of 2000 was filed, which was valued at Rs. 30 Lakhs, which was decreed in terms of forged and fabricated compromise

petition. After noticing this fact, the petitioner filed a Miscellaneous Case for setting aside the compromise decree, which stood dismissed, against which the Appeal was preferred before this court. According to learned counsel for the petitioner as per value mentioned in the Title Suit No. 135 of 2000 the suit and Appeal value was required to be mentioned as Rs. 30 Lakhs, however, it was mistake on the part of the learned counsel for the petitioner that instead of Rs. 30 Lakhs it was mentioned as Rs. 250/-.

In view of the facts and circumstances, the court is of the opinion that it was a bona fide mistake, which was not intentional and as such, the order dated 5.12.2014 passed in M.A. No.280 of 2014 is hereby recalled and the Appeal is restored to its original file.

Learned counsel for the petitioner is permitted to make correction in respect of the suit and Appeal value in the memo of Appeal in course of the day.

(Rakesh Kumar, J)

Praful/-

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