

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.51 of 2005

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Dhiraj Kumar & Ors

Versus

Most.Manju Srivastava & Ors

.... Appellant/s

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mukeshwar Dayal
Mr. Daya Shankar Pd.Sinha

For the Respondent/s : Mr. Laxmi Narayan Das
Mr. S,De
Mr. Ranjit Sharan
Mr. Subhdeeo Das

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

16 15-01-2015 Nobody appeared.

Perused the office note dated 14.01.2015.

In view of the office note this miscellaneous appeal had been dismissed against respondent nos.2, 3, 5, 6, 7, 9, 10, 11 and 14 to 18. Thereafter the appellants filed M.J.C. No.276 of 2010 for restoration of miscellaneous appeal against the said respondents. According to the office note, the said M.J.C. application has also been dismissed on 28.09.2011.

It appears that this miscellaneous appeal has been filed against the order dated 07.12.2004 passed by Subordinate Judge-I, Muzaffarpur in Partition Suit No.140 of 2004 whereby the court below rejected the injunction application filed by the plaintiffs-

appellants praying for restraining the respondents from alienating the suit property.

In view of the above facts, the impugned order now cannot be altered or modified or set aside in absence of the aforesaid respondents. Therefore, this miscellaneous appeal filed by the plaintiffs-appellants under Order 43 Rule 1 (r) of the Code of Civil Procedure is incompetent now. Accordingly, this miscellaneous appeal is dismissed as incompetent.

(Mungeshwar Sahoo, J)

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