

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.521 of 2012

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Babulal Sahni & Ors.

.... Appellant/s

Versus

Sheonandan Sharma & Ors.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Abhimanyu Sharma

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

9 22-05-2015

It appears that the order dated 13th May 2015 has wrongly been recorded. It is modified to the extent that it be read as follows:

“It appears that the appeal has been filed on the ground that when the case was called out, counsel for the appellant was not present which led to dismissal of the appeal.

The present case is arising from T.A.No. 96 of 1996 arising from T.S. No.42 of 1989. The appellant had filed the appeal against the judgment and decree passed by the trial court. Explanation has been given for non-appearance.

Counsel for the appellants submits that in the appeal appellants in person are not required to appear and take steps. It is the Advocate concerned to take steps and represent the appellants. The reason that has been assigned is that the conducting Advocate had left practice and moved to Delhi without giving information that was the reason for dismissal of the case for default. He further submitted that it is a genuine explanation showing the cause for restoration, as for the act of a lawyer, the client should not suffer.

Counsel for the respondents vehemently opposed the plea of

the appellants. She submits that it was not only the duty of the lawyer but also of the appellants who were required to remain vigilant.

Having considered the rival contention of the parties it appears that the explanation furnished by the appellants that has also been mentioned in the impugned order dated 20th June 2012 is plausible. This Court finds and holds that the impugned order passed in T.A.No. 96 of 1996 is restored to its original file, subject to payment of Rs.5,000/- which should be paid to the counsel representing the respondents and receipt be filed in the Office of the Court.

The appeal is allowed to the aforesaid extent.”

(Shivaji Pandey, J)

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