

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.1385 of 2009

=====

Sunaina Devi & Ors

.... Petitioner/s

Versus

Rajesh Kumar @ Raju & Ors

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma
Mr. Lakshmi Kant Tiwary

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

22 07-01-2015

Heard learned Counsel for the parties.

By the impugned order the learned court below has dismissed Misc. Case No. 9 of 2009, filed by the petitioners assailing the compromise decree passed in Title Suit No. 173 of 1973/ 73 of 1981, on the ground that the Miscellaneous Case was barred by limitation and there was no petition for condonation of delay.

The facts are not in dispute that the compromise decree was passed in the aforesaid Title Suit No. 173 of 1973/73 of 1981 on 22.2.1999. The Misc. Case was filed on 16.3.2009 for setting aside the said compromise decree on the grounds of fraud as mentioned in the said petition. The learned court below, as mentioned earlier, has held that the Misc. Case was filed ten years after the compromise decree and, therefore, the same would be barred by limitation.

Principle in this regard has been laid down by the Apex Court long back in the case of Banwari Lal v. Chando Devi, (1993 SC 1139) and the same view has been reiterated in the latter judgments also.

The reliance by the learned Counsel for the Opposite parties on the decision of the Apex Court in the case of Sneh Gupta v. Devi Sarup (2009) 6 SCC 194 is clearly misplaced and the facts are distinguishable inasmuch as in the said case the petition was filed by two parties who have been left out and the Apex Court was considering the scope of Article 123 of the Limitation Act. In substance, it has been well settled that a petition under Section 151 CPC is maintainable for setting aside the compromise decree and there is no prescribed period of limitation for filing a petition under Section 151 CPC.

Learned Counsel for the petitioners has rightly placed reliance on the judgment reported in 2013 (2) PLJR 227, (Urmila Singh, Vs. Satendra Singh).

In view of the aforesaid reasons and discussions, this revision application is allowed and the impugned order is set aside.

(V. Nath, J)

Snkumar/-

U			
---	--	--	--