

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6039 of 2011

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Reena Devi, wife of Narsingh Ram, Village-Sakin, Brahampur, P.O. + P.s.-
Phulwari Sharif, District & Town-Patna.

.... Petitioner/s

Versus

Sanjay Prasad, son of Mahesh Prasad, Village-Sakin, Brahampur, P.O. + P.s.-
Phulwari Sharif, District & Town-Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. SUNIL KUMAR

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 21-08-2015

The plaintiff of Title Suit bearing Title Suit No. 190 of 1999 filed for specific performance of contract was allowed ex-parte by judgment and decree dated 20.9.2000 and 4.11.2000 respectively. The defendant filed an application under Order IX Rule 13 of the Code of Civil Procedure (for short 'the Code') for setting aside the ex-parte judgment and decree which gave rise to Misc. Case No. 29 of 2001 wherein witnesses were examined. The said miscellaneous case was dismissed for non-prosecution. In such circumstance, the application was filed for restoration of the miscellaneous case to its original file and number. As there was delay in doing so, the application under section 5 of the Limitation Act was also filed. The Court below by the impugned order dated 18.5.2009 has allowed those applications. The Misc. Case no. 29 of 2001 has been restored to its original file and

number subject to payment of cost.

I have perused the order and considered the submissions. In my view, the order does not suffer from any perversity meriting interference. The miscellaneous case has been restored wherein the parties will be heard to consider as to whether the judgment and decree passed ex-parte was legal or otherwise.

The writ application is dismissed.

(Kishore Kumar Mandal, J)

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