

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.4334 of 2011

In

Civil Revision No.1655 of 2007

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Pramod Kumar Gupta Son of Late Dwarika Sah, Resident of Mohalla -
Hatsarganj, P.S. - Hajipur, District - Vaishali.

.... Petitioner/s

Versus

1. Arun Kumar Gupta Son of Late Satya Narain Gupta, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
2. Suresh Kumar Gupta Son of Late Satya Narain Gupta, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
3. Abhishek Kumar Son of Late Sheo Nandan Gupta, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
4. Kailash Devi Wife of Late Sheo Nandan Gupta, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
5. Kedar Nath Gupta Son of Late Sheo Nandan Gupta, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
6. Geeta Devi Wife of Late Ashok Kumar Gupta, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
7. Ravindra Kumar Gupta Son of Late Sheo Nandan Gupta, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
8. Badri Kumar Gupta Son of Late Jai Narain Gupta, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
9. Sagar Devi Wife of Late Dwarika Sah, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
10. Amod Kumar Gupta Son of Late Dwarika Sah, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
11. Radha Devi Daughter of Late Dwarika Sah, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
12. Raj Kumari Devi Daughter of Late Dwarika Sah, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
13. Smt. Leelawati Devi Wife of Satya Narain Gupta, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
14. Ful Kumari Wife of Sri Abhimanyu Ram, Resident of Mohalla - Hatsarganj, P.S. - Hajipur, District - Vaishali.
15. Smt. Veena Sinha Wife of Balkrishna Basant, Resident of Village - Paitrapur, P.O. - Khalik Nagar, P.S. - Kharka Sadar, District - Muzaffarpur.

.... Opp. Party/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Lal

For the Opp. Party/s : None.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 01-07-2015 Heard learned counsel appearing on behalf of the petitioner.

The present M.J.C. application has been filed on behalf of the petitioner seeking restoration of C.R. No. 1655 of 2007,

which stood dismissed for non-compliance of the Court's peremptory order dated 06.01.2011.

By order dated 24.09.2010 passed in aforesaid C.R. No. 1655 of 2007, it was held to be not maintainable in view of the judicial pronouncements made by the Hon'ble Apex Court as also a Division Bench of this Court. However, liberty was granted to the petitioner to convert the aforesaid Civil revision application into writ petition under Article 227 of the Constitution of India.

In view of the aforesaid order dated 24.09.2010 passed by a Bench of this Court [Coram: Dr. Ravi Ranjan,J], the prayer for restoration of aforesaid C.R. No. 1655 of 2007 is completely misconceived and untenable, as it has already been held to be not maintainable. However, in the given facts of the case, this Court is of the opinion that the interest of justice shall be sub-served if the petitioner is granted liberty to file a fresh writ petition in the same subject matter under Article 227 of the Constitution of India. It is ordered accordingly.

If such a fresh writ petition is filed on behalf of the petitioner in the same subject matter within a period of one month from today with a certified copy of the present order, then the same shall be considered and decided on its own merit and shall not be dismissed on the ground of the principles of res judicata.

The present application stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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