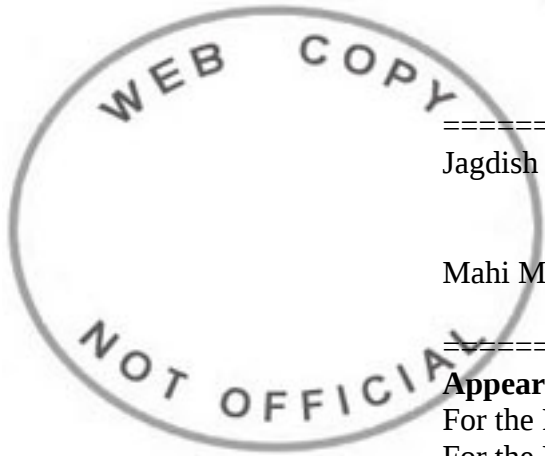




IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3775 of 2014
In
First Appeal No. 902 of 1979

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Jagdish Mehta & Ors				Petitioner/s
	Versus			
Mahi Mehta & Ors				 Respondent/s

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Appearance :
For the Petitioner/s : Mr. Subesh Sharma
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

6 13-05-2015 Heard learned counsel Mr. Prabhakar Nath Rai for the petitioners.

This M.J.C. application has been filed under Section 41 Rule 19 of the Code of Civil Procedure for readmission of First Appeal No.902 of 1979, which was dismissed for default on 12.07.1995.

It appears that after dismissal of First Appeal No.902 of 1979 several M.J.C. applications were filed either for restoration or readmission of the appeal. The said M.J.C. applications were either dismissed for default or dismissed on the ground of limitation and ultimately the petitioners filed L.P.A. No.25 of 2014. The said L.P.A. was permitted to be withdrawn with liberty to the petitioners to file appropriate application. Accordingly, this

M.J.C. application has been filed.

The learned counsel for the petitioners submitted that it was the fault on the part of the advocate, therefore, on the date of hearing of the first appeal nobody appeared. According to the learned counsel, because of fault on the part of the advocate the petitioners, who are pursuing the appeal, should not be punished.

Perused the record. It appears that on the same set of facts earlier M.J.C. No.3284 of 2013 was filed by the petitioners for restoration of M.J.C. No.6501 of 2012. This Court by terms of order dated 30.10.2013 dismissed the M.J.C. application holding that the Court is not satisfied that a case for restoration of M.J.C. application is made out and accordingly, thereafter L.P.A. was filed. It further appears that prior to the said M.J.C. applications, the other M.J.C. application being M.J.C. No.1505 of 1995 had been filed, which was also dismissed for default. It appears that M.J.C. No.6501 of 2012 was dismissed on the ground of barred by law of limitation.

From the above facts and circumstances of the case it appears that the petitioners are filing repeated applications for the same set of relief although earlier M.J.C. applications were dismissed on the ground of limitation or dismissed for default and

now, therefore, this M.J.C. application for restoration of first appeal is not maintainable and accordingly, this M.J.C. application is dismissed as not maintainable.

(Mungeshwar Sahoo, J)

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