

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.431 of 2013  
Arising out of  
Miscellaneous Jurisdiction Case No. 37 of 2010  
Arising out of  
Letters Patent Appeal No.74 of 1993  
Arising out of  
First Appeal No.121 of 1975  
Along with  
Interlocutory Application No.6005 of 2016

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Surya Kant Mishra, son of late Nageshwar Mishra, resident of Morwadih, P.O.-  
Morwa Bazar, P.S.-Musri Gharari, District-Samastipur.

.... .... Appellants- Petitioner/s

Versus

1. Binod Kumar Jha
2. Manoj Kumar Jha

Both are sons of Late Shipat Jha @ Sripati Jha, resident of Village-Morwadih,  
P.O.-Morwa Bazar, P.S.-Musri Gharari, District-Samastipur.

Opposite Parties-Opposite Parties.

3. Leelawati Mishrain, widow of Mehilal Mishra, resident of Morwadih, P.O.  
Morwa Bazar, P.S.-Musri Gharari, District-Samastipur. At present residing in  
Village-Pali Uterwari Toli, P.O.-Paligoth, P.S.-Benipatti, District-Madhubani.

Opposite Party-Opposite Party.

4. Jai Kala Mishrain, widow of Nageshwar Mishra, resident of village-Morwadih,  
P.O.-Morwa Bazar, P.S.-Musri Gharari, District-Samastipur.
5. Kamli Devi @ Kewala Devi, daughter of Nageshwar Mishra, resident of  
village-Morwadih, P.O.-Morwa Bazar, P.S.-Musri Gharari, District-  
Samastipur.
6. Kaushalya Devi, daughter of Nageshwar Mihra and wife of Khageshwar  
Mishra, resident of village-Morwadih, P.O.-Morwa Bazar, P.S.-Musri Gharari,  
District-Samastipur.
7. Sushila Devi, daughter of Nageshwar Mishra and wife of Anirudh Jha @  
Anirudh Jha, resident of village-Morwadih, P.O.-Morwa Bazar, P.S.-Musri  
Gharari, District-Samastipur.

.... .... Petitioners-Opposite Parties

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**Appearance :**

For the Petitioner/s : Mr. Bam Bahadur Jha, Advocate

For the Respondent/s :

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**CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA**

**and**

**HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**

ORAL JUDGMENT  
(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

**Date: 30-08-2016**

Re.: Interlocutory Application No.6005 of 2016

The application is for condonation of delay of 172 days in filing of the present Civil Review Application.

For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Civil Review Application.

Interlocutory Application stands allowed accordingly.

Re.: Civil Review No.431 of 2013

The applicant seeks review of the order passed by this Court on 9<sup>th</sup> April, 2013 whereby, the review sought by the appellant of an order passed in the Letters Patent Appeal on 1<sup>st</sup> of September, 2009 remained unsuccessful.

A partition suit was filed in the year 1970 which was decreed on 23<sup>rd</sup> December, 1974. The applicant is defendant no.1. He filed First Appeal which was dismissed on 28<sup>th</sup> of July, 1993. In the Letters Patent Appeal, notice was ordered to be issued to respondents, but for non-compliance of the order of issuing notice upon respondents nos.1 and 3, the appeal was dismissed on 1<sup>st</sup> of September, 2009. Respondent no.2 died during the pendency of the appeal, but no substitution application was filed.

The application for review was dismissed on 9<sup>th</sup> April, 2013 for the reason that no fruitful purpose will be served by restoring the Letters Patent Appeal when the cause of action arose in the year 1970.

We have heard learned counsel for the applicant and find no merit in the present review application. The suit was for partition. Such a suit is required to be decided expeditiously. The attempt of the applicant appears to be to delay the final adjudication may be to continue with the possession of the entire property. The issues raised in the suit are not such which requires any further adjudication. The matter should attain finality.

Consequently, the present Civil Review Application is dismissed.

**(Hemant Gupta, J.)**

**(Ahsanuddin Amanullah, J.)**

Sunil/-

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