

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1066 of 2016

In
SA 28 of 2010

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Devendra Pradhan son of Bisho Pradhan, resident of village Raghubir,
Chak(Rampatti) Post office Raj Nagar, Police Station Raj Nagar, District
Madhubani.

.... Petitioner/s

Versus

1.Jeebachh Thakur

2.Debu Thakur.

Both are sons of Nebu Thakur, residents of village Raghubir Chak
(Rampatti) Post office Raj Nagar, Police Station Raj Nagar, District
Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Prasad, Adv

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

2 10-08-2016

Heard learned counsel for the petitioner.

The present application has been filed praying for
restoration of Second Appeal No. 28 of 2010 which stood
dismissed for default for non compliance of the order dated
29.11.2011. The present application for restoration has been
presented for filing on 10.07.2015 and after removal of the
defects it has been finally filed on 29.03.2016.



From the perusal of the order dated 29.11.2011 it appears that the direction was issued to the appellant to deposit the deficit court fee stamp and also to file requisites for service of notice upon the respondents in the limitation matter. It has been stated by the learned counsel for the petitioner that part of the order relating to filing of requisites for notice upon the respondents in the limitation matter has been complied on 06.03.2012. It has, however, been further accepted that, the part of the order relating to deposit of deficit court fee stamp has not been complied uptill now.

After considering the submissions and the averments made in the restoration application, it transpires that the only explanation has been furnished in paragraph no. 3 of the restoration application that 'some misfortune occurred in the family of the petitioner. And therefore peremptory order dated 29.11.2011 could not be complied within time.' There is no further explanation nor there is any fact mentioned as to the nature of said misfortune which prevented the petitioner from complying the direction of this court issued long back in the year 2011. The casual manner in which the appeal has been pursued by the appellant-petitioner is explicit. It is also clear that the present restoration application has been filed much more

after the expiry of even three years. In the aforesaid background this Court is not inclined to allow the prayer for restoration of the Second Appeal No. 28 of 2010.

The application is, accordingly, dismissed.

(V. Nath, J)

Ranjan/-

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