

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.153 of 2014

Arising out of

Miscellaneous Jurisdiction Case No. 1662 of 2011

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1. Kaberi Devi, widow of Late Harbansh Prasad Thakur
 - 2(i). Most. Puspa Kuer, wife of late Awadhesh Narayan Prasad
 - 2(ii). Chandra Prakash, daughter of late Awadhesh Narayan Prasad
 - 2(iii). Surya Prakash, daughter of late Awadhesh Narayan Prasad
 - 2(iv). Kumari Dhiraja, daughter of late Awadhesh Narayan Prasad
 - 2(v). Nidhi Kumari, daughter of late Awadhesh Narayan Prasad
 - 2(vi). Sidhi Kumari, daughter of late Awadhesh Narayan Prasad, all resident of Village Jahanabad, P.S. Kudra, District- Kaimur.
 3. Narendra Narain
 4. Jitendra Narayan Prasad
 5. Satendra Narayan Prasad
 6. Rabindra Narayan Thakur, All sons of late Haribansh Prasad Thakur
 7. Smt. Devanti Devi
 8. Smt. Kanti Devi
 9. Smt. Chandala Devi, All three 7-9 are daughter of Late Haribansh Prasad Thakur
 10. Rajbansh Thakur @ Rajbansh Hazam
 11. Hari Narayan Thakur @ Hari Narayan Hazam, both sons of Late Ramdhyam Hazam
 12. Smt. Sharada Devi, wife of Sri Sheo murat Thakur, daughter of Late Ramdhyam Hazam
 13. Smt. Sarswati Kuer, widow of Late Sheo Pujan Hazam, All are Resident of Village- Jehanabad, P.S. Kudara, District Kaimur

.... Petitioners

Versus

1. Md. Basir Mian, son of Late Sadique Mian
2. Nasu Mian, son of Late Sadique Mian
3. Nazama Khatoon, daughter of Late Sadique Mian, All resident of village- Jahanabad, P.S.- Kudra, District Kaimur
4. Salma Khatoon, wife of Mukhtar Mian, daughter of late Sadique Mian, Resident of village Kudara P.S. Kudara, District- Kaimur
5. Mohd. Sahabuddin Mian
6. Mohd. Raju Mian, Sons of Late Sarif Mian, Both are resident of village Jehanabad, P.S. Kudara, District- Kaimur
7. Meena Khatoon, wife of Allauddin Mian, daughter of Late Shant Mian, Resident of Mohalla- Adam Khan P.S. Sasaram, District Rohtas
8. Most. Kawati Kuer, widow of Late Deochand Mallah
9. Dina Nath Mallah, son of Late Deochand Mallah, Both 8 and 9 are resident of village Manikpur, P.S. Dehari on sone District Rohtas

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Ganpati Trivedi, Sr. Advocate.
Mr. Arabind Nath Pandey, Advocate.

For the Respondents :

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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: 02-05-2016

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The plaintiff is the appellant in the present Letters Patent Appeal. The plaintiff has sought specific performance of an agreement to sell dated 17th of May, 1968 having paid earnest money of Rs. 4,000/-. The balance sale consideration out of the total sale consideration of Rs. 12,206/- was to be paid on 15th of June, 1969. In the meantime, the defendant-vendor executed sale-deed in favour of Defendant Nos. 3 and 4 on 14th of August, 1968 on the basis of prior agreement to sell dated 1st of April, 1968. The suit for Specific Performance was filed in the year 1971. Though the learned trial court decreed the suit but in appeal, the learned Single Bench of this Court accepted the appeal and dismissed the suit.

2. The Letters Patent Appeal was dismissed on 7th of September, 2009 when none appeared on behalf of the appellants. M.J.C. No. 3968 of 2009 for restoration of appeal was dismissed for default on 6th of September, 2010. The appellants filed another M.J.C. No. 1662 of 2011 for restoration of M.J.C. No. 3968 of 2009. The said M.J.C. was also dismissed on 2nd of April, 2013. Present application is for review of the order dated 2nd of April, 2013, whereby the application for restoration of earlier application for restoration was

dismissed.

3. The present application has been filed along with application for condonation of delay of one year seven days in filing the Review Application.

4. Having heard learned counsel for the parties and keeping in view the background as noticed above, we do not find that sufficient cause is made out for condonation of delay in filing the Review Application. The conduct of the appellants shows lack of due diligence in prosecuting the appeal at various stages. Consequently, we do not find that any case is made out at this stage for review of the order refusing to entertain M.J.C. No. 1662 of 2011.

5. The Civil Review Application and the Interlocutory Application No. 3836 of 2014 stand dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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