

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3328 of 2014**

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1. Mrs. Deomani D/O Late Vidyawati Of Village And P.O. Hasanpur Pipra,  
Dist. Arwal. Presently R/S Of Chitrakut Nagar Road No. 3, Patna- 800012

.... .... Petitioner/s

Versus

1. Nathuni Chaudhary S/O Late Tribeni Chaudhary
2. Mithilesh Chaudhary
3. Sikandar Chaudhary
4. Jaichand Chaudhary
5. Jaiprakash Chaudhary All Sons Of Nathuni Chaudhary
6. Jayendra Chaudhary S/O Nathuni Chaudhary Minor Under The Guardianship Of His Father Next Friend And Well Wisher
7. Most. Parano Kuar Widow Of Late Ramchandra Chaudhary
8. Vijay Kumar Chaudhary S/O Late Ramchandra Chaudhary
9. Rajeev Raushan Chaudhary
10. Wicky Chaudhary All Sons Of Vijay Kumar Chaudhary
11. Most. Sudama Devi @ Tileshwary Devi Widow Of Late Radhika Chaudhary
12. Rintu Chaudhary S/O Late Radhika Chaudhary All Residents Of Village Hasanpur Pipra, P.S. And Distt.- Arwal (Jehanabad) (Bihar) By Religion Hindu, By Profession Cultivator House Wife And Dependents Respectively
13. Ashok Chaudhary Son Of Late Ramchandrika Chaudhary
14. Mundrika Chaudhary S/O Late Sarwan Chaudhary
15. Binay Chaudhary
16. Bala Chaudhary
17. Nandu Chaudhary All Sons Of Mundrika Chaudhary
18. Raushan Chaudhary Son Of Binay Chaudhary Minor Under Guardianship Of His Father Well Wisher And Next Friend Binay Chaudhary
19. Ram Ishwar Chaudhary Son Of Late Sarwan Chaudhary All Residents Of Village Hasanpur Pipra, P.S. And Distt.- Arwal (Jehanabad) (Bihar) By Religion Hindu, By Profession Cultivator House Wife And Dependents Respectively

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sheopujan Singh

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR**  
**SAHOO**  
**ORAL ORDER**

12 11-01-2016

Heard learned counsel for the petitioner.

By the impugned order dated 20.09.2013 passed by the

District Judge, Jehanabad in Title Appeal No. 17 of 2013, the court below dismissed the title appeal being barred by law of limitation.

The Division Bench of this Court, in the case of ***Ravneshwar Thakur & Ors. Versus Neeraj Kumar Thakur & Ors.*** reported in ***1996 (1) PLR 494***, has held that if the suit is decided on merit and the appeal filed against the judgment and decree is dismissed as barred by law of limitation, it will be a decree within the meaning of Section 2 of Sub-Section 2 C.P.C. The Hon'ble Supreme Court also in the case of ***Shyam Sunder Sharma Vs. Pannalal Jaisawal*** reported in ***AIR 2005 SC 226***, has held that an appeal presented out of time was nevertheless an appeal in the eye of law for all purposes and order dismissing the appeal was a decree that could be the subject matter of second appeal. In that case also, the appeal was dismissed as time barred and, therefore, the application under Article 227 of the Constitution of India or Article 226 of the Constitution of India is not maintainable before this Court. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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