

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12926 of 2014

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1. Ram Chandra Raut, son of Late Dorik Rai, resident of village- Bachopatti Narha,
P.S.- Baijpatti, District- Sitamarhi

.... Petitioner/s

Versus

1. Jai Shankar Mishra son of Late Janardhan Mishra
2. Tara Devi w/o Late Janardhan Mishra Both resident of village- Bachopatti Narha,
P.S.- Baijpatti, District- Sitamarhi
3. Phoolleshwari Devi W/o Ram Lakhan Rai, resident of village + P.O.- Bachopatti
Narha, P.S.- Baijpatti, District- Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siddharth Harsh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 08-09-2016

Heard learned counsel for the petitioner.

The present application has been filed by the petitioner against the impugned order whereby the learned court below has allowed the petition filed by the petitioner-respondent praying for recall of the order of ex parte hearing of the appeal.

From the order of this Court as contained in Annexure-1, it is evident that the petitioners of C.W.J.C No. 4610 of 2011 who are respondents in the present application were granted liberty to file fresh petition for recall of the order of ex parte hearing of the appeal.



Accordingly, the petition was filed by the respondents. However, the said petition came to be dismissed for default. The respondents thereafter filed another petition and by the impugned order the learned court below after hearing the parties has allowed the petition and recalled the order of ex parte hearing of the appeal. The learned counsel for the petitioner has submitted that in view of the order of this Court as contained in Annexure-1, the petitioner was granted liberty to file only one petition and once after the said petition was dismissed, another petition was not maintainable as the previous order has attained finality. No other submission has been made on behalf of the petitioner.

After considering the submissions and materials on record, this Court finds that the court below has allowed the petition on behalf of the respondents for recall of the hearing of the appeal ex parte after hearing both the parties and considering the facts and circumstances of the case. This Court further also does not find substance in the contention on behalf of the petitioner that the liberty granted by the earlier order of this Court as contained in Annexure-1 was confined to filing only one petition and after the dismissal of the said petition for default, the respondents were precluded from filing another petition before the court below for recall of the ex parte hearing. The findings recorded by the court below does not appear

to be perverse or unreasonable in any manner. This Court, therefore,
is not inclined to interfere with the impugned order.

The application is, accordingly, dismissed.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
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