

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No. 437 of 2014**

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Ranvir Kumar Choudhary Son of Sri Amar Nath Choudhary,  
Resident of Mohalla- South Digghi Tank, P.O.- Lal Bagh, P.S.  
Darbhanga 'Town', District- Darbhanga.

.... .... Appellant/s

Versus

1. Smt. Sushmit Suman (Wife of Ranvir Kumar Choudhary)  
Daughter of Mr. Sanjay Kumar Singh, presently Mohalla-  
Ganga Sagar, Allalpatti, P.O. D.M.C.H. Campus, P.S.  
Laheria Sarai, District Darbhanga
2. Dr. Rajnish, son of Ram Shankar Singh, Resident of  
Mohalla- Balbhadrapur, P.O. Laheria Sarai, P.S. Laheria  
Sarai, District- Darbhanga.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Gajendra Kumar Jha-2, Adv.

For the Respondent/s : Mr. Nachiketa Jha, Adv.

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**CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD  
SINGH**

**and**

**HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD  
SINGH)**

**03. 01.08.2016**

Contesting Respondent No. 1 has appeared.

I.A. No. 5801 of 2014 has been filed for condonation  
of delay in filing the appeal.

Delay is condoned. Accordingly, the I.A. stands  
allowed.

Heard the parties.

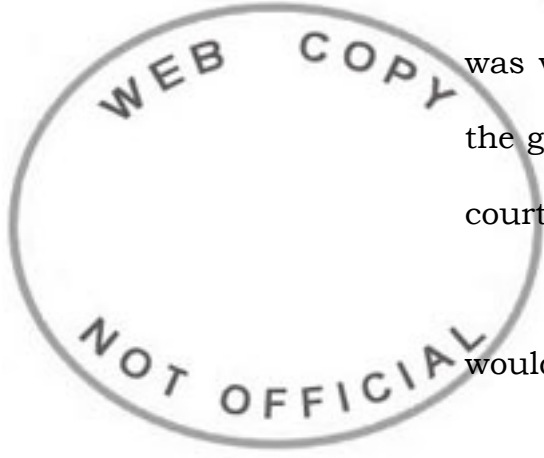
This appeal is directed against the final order dated  
07.01.2014 passed by the learned Principal Judge, Family  
Court, Darbhanga in Matrimonial Case No. 82 of 2010  
instituted by the appellant.

The appellant had sought a declaration that the  
marriage of the appellant to respondent No. 1 was a valid  
marriage and as such respondent No. 1 having married

respondent No. 2 during subsistence of the earlier marriage thus marriage between the appellant and respondent No. 2 was void. The learned trial court has dismissed that case on the ground of res judicata in view of the judgment of the said court in Matrimonial Case No. 154 of 2008.

Learned counsel for the appellant submits that it would not be a case of res judicata.

Having heard the parties, we are of the view that this Matrimonial Case No. 82 of 2010 is clearly barred by res judicata as the foundation of this case is that the applicant/appellant had a valid and subsisting marriage with respondent No. 1. This fact stands concluded by finding as recorded in Matrimonial Case No. 154 of 2008 and by judgment and order dated 05.09.2011 passed by the Principal Judge, Family Court, Darbhanga. In that application this very appellant had contended for restitution of conjugal rights under Section 9 of the Hindu Marriage Act on the ground that the appellant was married to respondent No. 1 and the marriage was subsisting. After elaborately dealing with the issue, the trial Court found that there was no issue of valid marriage as between the appellant and the respondent No. 1. This was a finding of fact, in fact, inter-parte in relation to the relation-ship of husband and wife as between them, the Court notified the relation-ship. It may be noticed that from the said judgment and order a miscellaneous appeal being Miscellaneous Appeal No. 894 of 2011 was filed by the appellant which was also heard and dismissed by this Court



without interfering with the order of the Principal Judge. Thus, the finding of fact that there is no valid marriage between the appellant and respondent No. 1 attained finality as between the parties. Therefore, the Principal Judge was correct in holding that principles of res judicata would come into play and that finding cannot be either reopened or reagitated in a fresh proceeding may be under different process of law. Therefore, there is no reason to interfere with the order dated 07.01.2014 passed by the Principal Judge, Family Court, Darbhanga in Matrimonial Case No. 82 of 2010.

The Appeal stands dismissed.

**(Navaniti Prasad Singh, J.)**

**(Nilu Agrawal, J.)**

Vikash/-

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