

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1467 of 2017

In
First Appeal No. 500 of 1991

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1. Sulagana Devi, W/o Late Sukhari Singh,
 2. Munna Prasad Singh, Son of Late Sukhari Singh.
 3. Birendra Singh, Son of Late Sukhari Singh.
 4. Sanjay Prakash, Son of Late Sukhari Singh.
 5. Surya Singh, Son of Late Saral Singh.
 6. Brij Bihari Singh, Son of Late Saral Singh.
 7. Rajendra Singh, Son of Late Saral Singh.
 8. Kanhaiya Singh, Son of Late Saral Singh.
 9. Vidya Sagar Singh, Son of Late Saral Singh. All Resident of Village-
Pilapur, P.S. Jagdishpur, District- Bhojpur, at present residing at New
Colony, Pakari Arrah, P.S.- Arrah Nawada, District Bhojpur, Arrah.
 10. Sahodara Devi, W/o Baldeo Mishra, Resident of Village- Dhobaha,
P.O.- Kosma, P.S.- Sandesh (at present P.S.- Pawna) District Bhojpur, at
present Resident of Village- Garhani, P.S.- Garhani, District Bhojpur,
Arrah.

.... Petitioners

Versus

Ramyash Rai, Son of Baliram Rai, Resident of Village- Bara, P.O.- Bara
Kharauni, P.S. Bihiyan, District Bhojpur, at present Resident of Jain
College Ka Purvi Gate, Sahar Arrah, P.S. Arrah Nawada, District- Bhojpur.

.... Respondent

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Appearance :

For the Petitioners : Mr. Satyendra Prasad
For the Respondent : Mr. Satyendra Narayan Singh

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

4 19-07-2017 Heard the learned counsel for the petitioners as well as

learned counsel for the opposite parties.

The restoration application has been filed for
restoration of First Appeal No. 500 of 1991 to its original file
which was dismissed for default by order dated 26.10.2016.

On behalf of the petitioners, it is submitted that due to
unavoidable circumstances on call no body turned up when the



appeal was called. The petitioners will suffer irreparable loss and injury, if the appeal is not restored to its original file.

The learned counsel for the opposite parties, on the other hand, submits that restoration application has been filed after much delay, several opportunities were given to the appellants but they did not turned up and then the appeal was dismissed for default, the respondents have acquired indefensible right and, as such, the appeal should not be restored.

Having heard the learned counsels for the parties, going through the restoration and objection, I find that sufficient cause has been shown for not appearing on the date when the appeal was called out. This appeal was dismissed in presence of respondent.

In the result, the restoration application is allowed and First Appeal No. 500 of 1991 dismissed for default is restored to its original file and number with cost of Rs. 1,000/- (one thousand). The cost should be payable to the respondents.

(Jitendra Mohan Sharma, J.)

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