

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.353 of 2014

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1. Atma Singh Son of Late Lalta Singh Resident of Village Mokari,
P.S.-Bhabua, District-Kaimur at Bhabhua.

.... Appellant/s

Versus

1. Arjun Singh Son of Late Bechan Singh R/o Village Mokhari,
P.S.-Bhabhua District-Kaimur at Bhabhua.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Tribhuwan Narayan
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL ORDER

03 23-11-2017

Heard the parties.

From perusal of the record, it appears that the appellants have filed this miscellaneous appeal under Section 299 of the Indian Succession Act for setting aside the judgment dated 03.04.2014 passed by Additional District Judge-I, Kaimur at Bhabua in contested Probate Case No. 57/06-16/14.

Division Bench of this Court in the case of **Kusheshwar Purbe vs. Shri Shri 108 Ram Janaki Jee and others** reported in **2017 (3) PLJR 791** has been pleased to rule that the appeals filed under Section 299 of the Indian Succession Act in a contentious proceeding as envisaged under Section 295 shall be treated as First Appeal and would be governed by the



procedure prescribed for such an appeal.

In view of the aforesaid decision of this Court, this miscellaneous appeal filed against the judgment passed in contested probate case is not maintainable rather First appeal is maintainable against the same.

Hence, appellants are directed to take step for conversion of this miscellaneous appeal into First Appeal within three weeks.

(Prakash Chandra Jaiswal, J)

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