

IN THE HIGH COURT OF JUDICATURE AT PATNA

First Appeal No.79 of 2012

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1. Sri Vijay Kumar S/O Late Rameshwar Prasad, Resident of Mohalla 30 Kidwaipuri, Postal Colony Patna, P.S. Kotwali, District Patna.
 2. Sri Ashok Kumar S/O Late Rameshwar Prasad, Resident of Mohalla 30 Kidwaipuri, Postal Colony Patna, P.S. Kotwali, District Patna.
 3. Anil Kumar Srivastava S/O Late Rameshwar Prasad, Resident of Mohalla 30 Kidwaipuri, Postal Colony Patna, P.S. Kotwali, District Patna.

.... Appellant/s

Versus

1. Srimati Meera Devi W/O Sri Ashok Kumar, Resident of Village Repura, P.S. Dighawara, District Chhapara.
2. Smt. Shyam Verma W/O Diuendra Kr. Verma, Resident of Village Jhave Road (Rah) Gopalganj, P.S. Gopalganj, District Gopalganj.
3. Smt. Anjana W/O Liyasul, Resident of Mohalla Orobindo Palli, Waniyasol Adra, P.S. Purulia, District Puruliya (East Bengal).
4. Smt. Veena Devi W/O Sri Rajiv Ranjan, Resident of Mohalla Mahendru, P.S. Sultanganj, Distt. Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : None.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

8 09-01-2017 The present First Appeal has been filed against the judgment and decree dated 13th February, 2012 passed in Title Partition Suit No. 39 of 2007 by the learned Sub-Judge-10, Patna, whereby the aforesaid suit brought by the plaintiff- respondent no.3 herein was decreed on contest and it was held that the plaintiff is entitled to have 1/7th share in the suit property.

The present First Appeal is barred by limitation and several defects have been pointed out by the Stamp reporter. Despite order dated 27.4.2016 passed by the learned Registrar General, the deficit court fee stamp of Rs. 215/- and the limitation petition for condonation of delay in filing the appeal have not been filed by the appellants. Defect nos. 1 to 6, pointed out by the stamp reporter, have also not been removed. On account of non-



compliance of the aforesaid order dated 27.4.2016 passed by the learned Lawazima Board, the matter was placed for consideration before the Bench. On 28.7.2016, a co-ordinate Bench of this Court has passed the following order:-

“No one appears on behalf of the appellants. Perused the office note dated 20.07.2016.

The learned counsel for the appellants has not filed the deficit court fee stamp of Rs. 215/- and the limitation petition and further has not removed defect nos. 1 to 6 as reported by the stamp reporter.

However, for the ends of justice, two weeks time is allowed for the same, failing which necessary order will be passed.”

The aforesaid order dated 28.7.2016 passed by a co-ordinate Bench of this Court has also not been carried out till date, which has been pointed out by the office note dated 30.11.2016/ 23.12.2016.

When the matter has been called out today, none is appearing on behalf of the appellants to explain as to why the aforesaid order dated 28.7.2016 passed by a co-ordinate Bench of this Court has not been complied with till date. Indisputably, the present first appeal is barred by limitation and no petition for condonation of delay has been filed till date despite indulgences granted by the learned Lawazima Board as also by a co-ordinate Bench of this Court.

In above view of the matter, this Court is left with no option, but to hold that the present appeal is not maintainable on the ground of limitation.

Accordingly, the present first appeal is dismissed being barred by limitation. However, there shall be no order as to costs.

(Birendra Prasad Verma, J)

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