

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.548 of 2011

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Kiran Devi

.... Appellant/s

Versus

Tuntun Sah & Ors.

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. Amaresh Kumar Sinha, Advocate.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL
ORAL ORDER

25 06-10-2017

Heard the parties.

From perusal of the record, it appears that the appellant has filed this miscellaneous appeal under Section 299 of the Indian Succession Act for setting aside the judgment dated 12.05.2010 passed by Additional District Judge-II, Bhagalpur in contested Probate Case No. 3 of 2006 / Title Suit No.8 of 2007.

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, appellant is directed to take step for conversion of this miscellaneous appeal into First Appeal by 31st of October, 2017.

(Prakash Chandra Jaiswal, J)

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