

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Revision No.24 of 2016**

- =====
1. Shailendra Kumar @Shailendra Kumar Singh, Son of Late Suresh Prasad Singh, resident of Mohalla-Garhpur, Police Station and Anchal-Nawada, District- Nawada.
  2. Naveen Kumar, Son of Late Suresh Prasad Singh, resident of Mohalla-Garhpur, Police Station and Anchal-Nawada, District- Nawada.

.... .... Petitioner/s

Versus

1. The State of Bihar through Collector, Nawada
2. Anchal Adhikari, Nawada, Post- Nawada, District- Nawada

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Mritunjay Kumar

For the Respondent/s : Mr. Kundan Bhadur Singh

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**CORAM: HONOURABLE MR. JUSTICE V. NATH**  
**ORAL ORDER**

2      28-02-2017                      Heard learned counsel for the petitioners and learned counsel for the State opposite parties.

With the consent of the parties, the present civil revision is being disposed of at the stage of admission by this order.

The present revision application has been filed against the order dated 20<sup>th</sup> January, 2016 in Miscellaneous Case No. 02 of 2014, whereby the learned court below has refused the prayer of the petitioners for restoration of Title Suit No. 56 of 2000.

The facts are not in dispute that the aforesaid Title Suit had been filed by the petitioners against the State opposite



parties as defendants in the suit, and was decreed.

However Title Appeal No. 17 of 2006 was preferred by the State opposite parties and eventually the said appeal was allowed and the matter was remitted back for decision afresh in the suit. The suit however was dismissed thereafter for default. From the impugned order it does not appear that the present petitioners had been noticed fixing a date of hearing in the suit after remand. There is also no finding that the present petitioners were intimated any date of hearing as fixed in the suit. After considering the facts and circumstances of the case as well as the contention on behalf of the petitioners that no notice was issued and the petitioners had no knowledge of the date of hearing of the suit which fact has not been controverted by the State opposite parties, this Court finds that the learned court below has wrongly highlighted the issue of limitation before passing the impugned order refusing to restore the suit to its original file and dismissing the petition under Order 9 Rule 4 CPC filed by the petitioners. In result, this revision application is allowed and the impugned order is set aside. The Title Suit No. 56 of 2000 is restored to its original file.

The court below is directed to issue notice to the parties in the suit in accordance with law. The learned counsel for



the petitioners and the learned counsel for the State opposite parties have stated before this Court that they will instruct the parties to the suit to appear before the court below within a period of eight weeks from today.

This revision application is accordingly allowed with direction.

**(V. Nath, J)**

Vats/-

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