

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.28 of 2015

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1. Kumar Ajit Sharan. Son of Late Banwari Sharan.
 2. Kumar Shri Krishna Sharan. Son of Late Banwari Sharan. Both resident of Village - Dhandhwa, Police Station - Bodh Gaya, District - Gaya, presently residing at Village - Sirajpur, Police Station - Magadh University, District - Gaya.
 3. Manju Sinha. Daughter of Late Banwari Sharan, Wife of Mithlesh Sinha. Resident of Quarter No. 32/1/8-Cholindupur, Post Office - Housing Colony, Jamshedpur.
 4. Sobha Sinha. Daughter of Late Banwari Sharan, Wife of Dharmraj Kumar Sinha. Resident of Shatu Buru Iron Ore Project at and Post Office - Maghaia Burn, District - Sinhabhum.

.... Petitioner/s

Versus

The State of Bihar Through Collector, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Khatim Reza

For the Respondent/s : Mr. Kundan Bhadur Singh

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

3 30-06-2017 Heard learned counsel for the petitioners as well as learned Government Pleader for the State and perused the records.

This civil revision application has been preferred against the order dated 20.12.2014 passed by the learned District Judge, Gaya, in Title Appeal No. 79 of 2012 by which the learned District Judge allowed a petition filed under Section 5 of the Indian Limitation Act and accordingly condoned the delay in filing Title Appeal No. 79 of 2012, which was filed against the judgment and decree dated 25.07.2001 passed in Title Suit No. 190 of 1996. The learned District Judge found that there was delay



of 905 days only in filing the aforesaid Title Appeal and accordingly, passed the impugned order but by filing supplementary affidavit, the petitioners have brought photostate copy of memo of appeal as well as Sheristedar's report, which goes to show that the aforesaid Title Appeal No. 79 of 2012 was filed on 22.08.2012 and Sheristedar has reported that there was delay of 3905 days in filing the aforesaid Title Appeal. Therefore, the aforesaid fact goes to show that the learned District Judge, Gaya, passed the impugned order after considering the wrong fact and, therefore, in my view, the impugned order cannot be sustained in the eye of law. Accordingly, the impugned order dated 20.12.2014 passed in Title Appeal No. 79 of 2012 by the learned District Judge, Gaya, is, hereby, set aside and the matter is remitted back to the Court of learned District Judge, Gaya, with a direction to him to pass a fresh order on petition dated 10.09.2012 filed under Section 5 of the Limitation Act on behalf of the State of Bihar in accordance with law.

This civil revision application is accordingly disposed of.

(Hemant Kumar Srivastava, J)

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