

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3014 of 2016

IN

C.R. 1877 of 2009

- =====
1. Satya Narain Singh son of Late Ramjee Ram @ Ramjee Yadav
 2. Bishwanath Singh son of Late Ramjee Ram @ Ramjee Yadav both residents of Village - Baradparra, P.S. - Jagdishpur, District - Bhojpur (Bihar) at present residing at Jain College Ara Purvi Gate, P.S. - Ara (Nawada), District - Bhojpur (Bihar).
 3. Gyanchand Singh son of Late Brij Bihari Singh
 4. Ravindra Kumar Singh son of Late Brij Bihari Singh
 5. Sanjay Singh son of Late Brij Bihari Singh
 6. Suresh Singh son of Late Jai Karan Singh
 7. Ram Bachan Singh son of Late Ram Ekbal Singh
 8. Udai Chandra Singh son of Late Ram Ekbal Singh
 9. Thakur Dayal Singh son of Late Ram Ekbal Singh
 10. Wakil Singh son of Late Ramadhar Singh
 11. Surendra Singh son of Late Judge Singh
 12. Yogendra Singh son of Late Judge Singh Sl. No. 03 to 12 are residents of Village - Digha, P.S. - Jagdishpur, District - Bhojpur (Bihar).
 13. Shambhu Singh son of Umesh Chandra Singh Resident of Village - Masurhi, P.S. - Jagdishpur, District - Bhojpur (Bihar).
 14. Ram Nath Singh son of Badri Singh Resident of Village - Ishwar Singh Tola, P.S. - Jagdishpur, District - Bhojpur (Bihar).
 15. Lal Babu Singh son of Late Jai Ram Singh
 16. Gulab Singh son of Late Babloo Singh
 17. Birendra Singh son of Late Babloo Singh
 18. Hira Lal Singh son of Late Tetar Singh
 19. Sohrai Singh son of Late Tetar Singh
 20. Godhan Singh son of Late Tetar Singh Sl. No. 15 to 20 are residents of Village - Narayanpur, P.S. - Jagdishpur, District - Bhojpur (Bihar).
 21. Yogendra Singh son of Late Sheo Narain Singh
 22. Sahab Singh son of Late Sheo Narain Singh
 23. Manai Singh son of Late Bachan Singh Sl. No. 21 to 23 are residents of Village - Narayanpur, P.S. - Jagdishpur, District - Bhojpur (Bihar).

.... Petitioner/s

Versus

1. Dr. Shyam Nandan Mishra son of Late Laxmi Kant Mishra
2. Smt. Malti Devi wife of Dr. Shyam Nandan Mishra Both residents of Mohalla - Pakri, P.S. - Ara (Nawada), District - Bhojpur (Bihar).
3. Renu Kumari wife of Akhilesh Kumar Singh Resident of Village & P.O.- Barja, P.S. - Shahpur, District - Bhojpur (Bihar) at present residing at Mohalla - Raushan Vihar Colony, Bailey Road, Near Saguna More, P.O. Danapur, P.S. - Danapur, Town & District - Patna (Bihar).
4. Sona Devi wife of Late Uma Shankar Lal
5. Sanjay Kumar Srivastava son of Late Uma Shankar Lal
6. Sri Krishna Chandra Srivastava @ Pappu son of Late Uma Shankar Lal



7. Abhay Kumar Srivastava son of Late Uma Shankar Lal
8. Niranjan Kumar Srivastava son of Late Uma Shankar Lal Sl. No. 04 to 08 are residents of Mohalla - Raushan Vihar Colony, Bailey Road, Near Saguna More, P.O. - Danapur, P.S. - Danapur, Town & District - Patna (Bihar).
9. Smt. Vidya Srivastava wife of Bachan Jee Sahay
10. Smt. Shila Nath Srivastava wife of Rajiv Lochan Nath @ Atuljee
11. Smt. Mina Kumari Srivastava wife of Kumar Ajit Sl. No. 09 to 11 are residents of Mohalla - Sultanpur, P.S.- Jagdishpur, District - Bhojpur (Bihar) at present residing at Mohalla - Babu Bazar, P.S. - Ara (Nagar), District - Bhojpur (Bihar).
12. Smt. Malti Sinha wife of Sri R.N. Singh, daughter of Saraswati Devi Resident of Qtr. No. 761/11, Site (V), H.E.C. Ranchi - 4 (Jharkhand).
13. Smt. Pushpa Krishna daughter of Late Saraswati Devi wife of Ajay Krishna Resident of Qtr. No. 2300 Type - B, Site - 4, Sector - 2, H.E.C. Colony, Dhurwa, Ranchi - 4 (Jharkhand).
14. Jagdish Ojha son of Ram Badan Ojha
15. Narayan Ojha son of Jagdish Ojha
16. Salik Gram @ Salik Gram Ojha son of Jagdish Ojha
17. Raj Muni Devi wife of Salik Gram Ojha Sl. No. 14 to 17 are residents of Village - Semariya, P.S. - Shahpur, District - Bhojpur (Bihar).
18. Jagdeyal Singh son of Late Subedar Singh
19. Binod Kumar Singh son of Late Sheo Najar Singh Sl. No. 23 to 24 are residents of Village - Narayanpur, P.S. - Jagdishpur, District - Bhojpur (Bihar).
20. Amit Kumar Srivastava son of Late Madan Prasad Srivastava son of Late Madan Prasad Srivastava
21. Smt. Bimal Devi daughter of Late Mahendra Prasad Sl. No. 18 to 21 are residents of Village - Semariya, P.S. - Shahpur, District - Bhojpur (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhrub Narayan, Sr. Adv.

For the Respondent/s : Mr. Jitendra Kishore Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 15-03-2017

Heard Mr. Dhrub Narayan, learned Senior counsel for the petitioners and Mr. Jitendra Kishore Verma, learned counsel for the opposite parties.

This application has been filed for restoration of the Civil Revision No. 1877 of 2009 which has been dismissed for non



prosecution vide order passed on 22.3.2013.

Facts on record would reveal that the civil revision application having been dismissed for non prosecution on 22.3.2013, as per legal advise tendered, the petitioners preferred an application under Article 227 of the Constitution of India for questioning the order of abatement which was put to question in the civil revision application. The application filed under Article 227 of the Constitution of India was dismissed by a Bench of this Court taking note of the fact that civil revision application had already been filed for the purpose but not pursued after its dismissal for non prosecution and that in between there was substantial delay in preferring the application.

While Mr. Dhruv Narayan learned Senior counsel presses the application for restoration inter alia on grounds that there had been no deliberate laches on the part of the counsel to pursue the remedy, the restoration application is opposed by Mr. Verma on grounds that the petitioner having chosen to pursue a parallel remedy by filing an application under Article 227 of the Constitution of India, the same having been dismissed by a bench of this Court, the issue cannot be permitted to be raised by the petitioner in the civil revision application. According to Mr. Verma the reasons on which the application of the petitioner filed under Article 227 of the Constitution of India, was dismissed, would also be a ground for refusing the



prayer made in the present application.

I have heard learned counsel for the contesting parties and I have perused the records.

I have already observed, the present application has been filed for restoration of the civil revision application bearing C.R. No. 1877 of 2009 which stood dismissed for non prosecution on 22.3.2013. The delay in filing the present application stands explained in my observation made hereinabove. Whether or not in view of the dismissal of the application filed by the petitioners under Article 227 of the Constitution of India bearing C.W.J.C.No.6845 of 2014, the Civil Revision Application would remain maintainable, is not an issue in contest herein and may be, the counsel for the parties would have their turn to contest when the civil revision application is taken up for consideration on its merits but in the circumstances where it is restoration which is put to consideration before this Court, I would refrain myself from expressing any opinion as to the issue of maintainability.

Having heard learned counsel for the parties and considering the reasons assigned in the present application which led to the dismissal of the civil revision application, I am persuaded enough to recall my order dated 22.03.2013 passed in C.R.No.1877 of 2009 and



as a consequence the civil revision application bearing C.R. No. 1877 of 2009 is restored to its file.

This application is allowed with the observation above.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.03.2017
Transmission Date	NA

