

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.1170 of 2016

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Munni Kunwar & Ors

.... Appellant/s

Versus

Sidhnath Singh & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Neeraj Kumar

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL
ORAL ORDER

3 15-11-2017

Heard learned counsel for the appellants.

From perusal of record, it appears that the appellants have filed this miscellaneous appeal under Section 299 of the Indian Succession Act for setting aside the judgment dated 13.07.2016 passed by learned 3rd Additional District and Sessions Judge, Bhojpur, Ara in contested Probate Case No. 5 of 1993.

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, appellants are directed to take step for conversion of this miscellaneous appeal into First Appeal within two weeks.

(Prakash Chandra Jaiswal, J)

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