

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4757 of 2013

In
First Appeal No. 242 of 1994

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Sheo Shankar Giri @ Ramchandra Giri

.... Petitioner

Versus

Sheo Shankar Giri Chela of Mahanth Sukhdeo Giri

.... Opposite party

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Appearance :

For the Petitioner : Mr. Kailash Nath Diwakar

For the Opposite party : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

10 06-07-2017 This M.J.C. application has been filed for restoration
of First Appeal No.242 of 1994.

It appears that first appeal was dismissed in 2008 and
this M.J.C. application has been filed in the year 2013. There is
delay of about 5 years. In spite of this fact no limitation
application has been filed by the petitioner.

From perusal of First Appeal No.242 of 1994, it
appears that on 11.07.2008 the High Court ordered that **the
application for substitution of the sole respondent having been
rejected for non-compliance of peremptory order, the present
appeal abates. The appeal has, therefore, become incompetent.**

It may be mentioned here that in the first appeal the
sole respondent was Sheo Shankar Giri and for non-substitution of
the legal representatives the first appeal had abated in the year



2008. In this M.J.C. application the said deceased sole respondent Sheo Shankar Giri has been made opposite party. Therefore, this M.J.C. application is barred by law of limitation and also not maintainable against a dead person.

Accordingly, it is dismissed.

(Mungeshwar Sahoo, J)

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