

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.118 of 2015

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Ram Singhashan Singh

.... Petitioner/s

Versus

Smt. Ramshila Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

3 13-07-2017 Heard learned counsel for the petitioner and perused the record.

The present civil revision petition has been filed against the order dated 28.09.2015 passed by the learned Sub-Judge 1st, Aurangabad, in Misc. No. 5 of 2010/ Execution Case No. 04 of 1996 by which and whereunder he allowed Misc. No. 05 of 2010 and ordered for restoration of Execution Case No. 04 of 1996.

It would appear that the aforesaid Execution Case No. 04 of 1996 was filed for execution of a decree which was passed on 27.05.1995. However, the aforesaid execution case remained pending from 1996 to 2006 and on 04.01.2006, the aforesaid execution case was dismissed for want of prosecution. However, Misc. No. 05 of 2010 was filed on 06.04.2010, which was subsequently, allowed passing the impugned order.



Learned counsel for the petitioner submits that, as a matter of fact, the opposite parties left doing pairvi in Execution Case no. 04 of 1996 some where in the year 2003 and the Execution Court waited the appearance of opposite parties till 2006 and on 04.06.2006, the aforesaid execution case was dismissed and moreover, after four years of dismissal of the aforesaid Execution Case, the opposite parties filed restoration petition but did not file any petition under section 5 of the limitation Act for condonation of delay in filing the aforesaid Misc. Case No. 05 of 2010 . He further submits that the opposite parties, subsequently, filed petition under section 5 of the limitation Act on 14.12.2011 but the learned court below did not consider the aforesaid latches of the opposite parties and passed order for restoration of execution case no. 04 of 1996 and, therefore, the learned court below committed illegality in passing the impugned order but I am not at all convinced with the aforesaid submission because the learned court below having considered the materials available on the record passed the impugned order which does not suffer with any illegality, irregularity or impropriety. Therefore, this Court does not think it proper to discard the view taken by the court below in passing the impugned order.



Accordingly, I do not find any merit in this civil revision petition and, hence, this civil revision petition stands dismissed on admission stage itself. However, the learned court below should expedite the disposal of execution case no. 04 of 1996.

(Hemant Kumar Srivastava, J)

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