

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2746 of 2016

IN

SA 145 of 2010

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1. Ram Sevan Singh
2. Radhe Singh, both sons of Kedar Singh
3. Raju
4. Munna, Both sons of Ram Sevan Singh All resident of Village- Gopalpur, P.S.-
Masaurhi, District- Patna.

.... Petitioners

Versus

1. Ramkrit Prasad
2. Durga Prasad, both sons of late Nathuni Prasad, Resident of Village- Gopalpur,
P.S.- Masaurhi, District- Patna.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Nawal Kishore Sharma

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 29-03-2017

Heard Mr.Dronacharya, learned counsel
appearing for the petitioners.

The present restoration application has been filed
praying for restoration of S.A.No. 145/2010 which stood dismissed
for default for non-compliance of the order dated 20.04.2011.

It transpires from the records that the S.A.No.
145/2010 was filed on 02.04.2010 and by order dated 30.07.2010 the
prayer on behalf of the appellants for grant of four weeks time to
remove the defects pointed out by the office was allowed. However,
the said order was not complied and again by order dated 20.04.2011
the further one week time was granted to the appellants for



compliance of the directions as contained in the said order dated 30.07.2010. The same was not again complied.

This restoration application has been filed on 28.07.2016. There is nothing on record that the appellants took any steps in between the order dated 20.04.2011 upto 28.07.2016 for restoration of the appeal.

From the averments made in the restoration application as well as supplementary affidavit filed thereto, it transpires that the blame has been tried to be attributed to the learned counsel appearing for the appellants in the second appeal and on advocate's clerk. The present restoration application has been filed through another advocate.

After considering the submissions and the aforesaid averments, this Court does not find that any cogent or convincing explanation has been furnished for restoration of this appeal after lapse of nearly 5 years. The essential element disclosing the seriousness or promptness on the part of the respondents in pursuing this appeal is clearly absent and the gross negligence or casual approach is explicit from the facts.

This Court, therefore, declines to allow the prayer for restoration.

The restoration application is, accordingly,



dismissed.

(V. Nath, J)

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