

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.396 of 2017

In

First Appeal No. 137 of 2016

=====

Jagdish Narayan Poddar & Anr

.... Appellant/s

Versus

Neelam Devi & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Sanjay Kumar Jha

For the Respondent/s :

=====

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

8 29-11-2017

Heard learned counsel for the appellants.

From perusal of the 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 07.09.2016 passed by learned 1st Additional District and Sessions Judge, Madhepura in contested Probate Case No. 08 of 1992.

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 one week.

(Prakash Chandra Jaiswal, J)

rohit/-

U			
---	--	--	--

