

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2459 of 2017

In

SA 243 of 1988

- =====
1. Shankar Ram, Son of Late Ramjee Ram,
 2. Karu Ram, Son of Ramjee Ram,
 3. Harihar Ram, Son of Ramjee Ram, All Residents of Village- Bishay,
Post Office- Manikpur, Police Station- Tarapur, District- Munger.
- Petitioner/s

Versus

1. Murari Prasad Singh.
2. Bankey Lal Singh. Both sons of Late Krishna Singh @ Kirta Singh.
3. Smt. Tara Devi,
4. Smt. Kishori Devi, Both Daughters of Late Krishna Singh @ Kirta Singh, All residents of Village- Laxmipur Begaddi, Post Office and Police Station- Laxmipur, District- Munger, at present Mohalla- Belan Bazar, Bengali Tola, P.S.- Kotwali, District- Munger.
5. Deo Narayan Singh, Son of Bado Ram, Resident of Village/Mohalla - Dilwarpur, Bara, P.S.- Kotwali, P.O. and District- Munger.
6. Shashi Deo Ram minor son of Sukhdeo Ram, deceased U/G of Gurudeo Ram, Son of Jhallu Ram, resident of Mohalla- Dilwarpur, Bara, P.S.- Kotwali, P.O. and District- Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pravin Chandra Prasad, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 07-05-2018 Second Appeal No.243 of 1988, filed by Ramji Ram, father of the present petitioners, stood dismissed for non-compliance of Courts order dated 28.01.1989 for the reason of non-filing of the deficit Court-fee. Thereafter, MJC No.94 of 1989 was filed under Section 151 of the Code of Civil Procedure for restoration of the S.A. by the same Ramji Ram. The aforesaid MJC petition was dismissed for non-compliance of the Court's order dated 16.03.1990 and the order got finality. Thereafter, MJC



No.2959 of 1996 was filed, under Section 151 of the Code of Civil Procedure, by the present petitioners for restoration of MJC No.94 of 1989. On 28.01.1997, this Court passed the following orders in MJC No.2959 of 1996:

“Learned counsel for the petitioner is permitted to correct the date of dismissal of MJC No.94 of 1989 during the Course of the day. The present petition is not maintainable as unless the orders passed in MJC No.94 of 1989 are not recalled, question of restoration of Second Appeal would not arise.”

The order aforesaid also got finality. Thereafter Ramji Ram, father of the present petitioners, again filed MJC No.5781 of 2011, under Section 151 of the Code of Civil Procedure, for restoration of MJC No.2959 of 1996 which was dismissed on 28.01.1997. That application was dismissed on 06.05.2013 as no one appeared on behalf of the petitioner.

The office has raised objection on the maintainability of successive petition after dismissal of the previous petition for the same purpose.

The ground raised for restoration of the second appeal aforesaid is that earlier MJC applications (three in numbers) were not filed by the present advocate.



Since, earlier applications for restoration of second appeal were already dismissed for one reason or other and the dismissal got finality, this fourth petition for the same purpose is not maintainable.

Accordingly, it stands dismissed as not maintainable. If the petitioners would file any such petition with same prayer before this Court in future that would be treated as an abuse of the process of the Court and shall be dismissed with heavy cost.

(Birendra Kumar, J)

Mkr./Sanjeev

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