

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**First Appeal No.34 of 2016**

---

Baleshwar Yadav & Ors.

... .. Appellant/s

Versus

Kamla Devi & Ors

... .. Respondent/s

---

**Appearance :**

For the Appellant/s : Mr. Fakhruddin Ali Ahmad  
For the Respondent/s : Mr.

---

**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN  
SHARMA**

ORAL ORDER

5     12-02-2018             Perused the office notes dated 09.02.2018 and further stamp report dated 25.01.2018. It is reported that under the impugned order dated 30.05.2016 Sub-Judge-III, Gaya allowed the petition filed under Order 7 Rule 11 (a) and (d) rejecting the plaint in question and rejection of plaint is a decree in terms of Section 2(2) of C.P.C. and, as such, the appeal will lie but value of suit and appeal mentioned in this memo of appeal is Rs. 01 lakh. In view of the valuation, proper remedy seems to lie by way of filing a memo of First Appeal under Section 96 C.P.C. in the Court of learned District Judge, Gaya in view of enhanced pecuniary jurisdiction.

The learned counsel for the appellants submits that memo of appeal be returned to file the same before the learned District Judge, Gaya and the limitation in filing the appeal at Gaya be



condoned.

Under the circumstances, the learned counsel for the appellants is permitted to take return of this memo of appeal within three weeks and to file the same before the learned District Judge, Gaya, and then learned District Judge, Gaya shall consider the point of limitation sympathetically as the appellants have filed First Appeal here on 23.06.2016 and accordingly, this appeal is hereby disposed of.

**(Jitendra Mohan Sharma, J.)**

Rajiv/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

