

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2315 of 2017

In

MA 354 of 2004

- =====
1. Sheela Devi Wife of Late Badri Narain Singh
 2. Ram Narain Singh father of Late Badri Narain Singh
 3. Ranjit Kumar Singh @ Ranjeet Kumar Son of Late Badri Narayan Singh
All residents of Village + P.O. - Rampur, P.S. - Surajgarha, District -
Lakhisarai.
 4. Madhu Kumari Wife of Mukesh Kumar, Daughter of Late Badri Narain
Singh Resident of Mohalla - Sector - 14, Dwarikapuri, New Delhi.
 5. Puja Kumari Wife of Harikesh Kumar, Daughter of Late Badri Narain
Singh Resident of Village + P.O. - Pratappur, District - Lakhisarai.
 6. Chhoti Kumari @ Archana Kumari Wife of Prabhakar Kumar Resident
of B/C-1/131-D, Shalimarbagh, New Delhi.

.... Petitioner/s

Versus

1. The Union of India represented By General Manager, Eastern Railway,
Kolkata.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Sharma, Adv.

For the Respondent/s : Mr. Anil Kumar Sinha, Adv.

Ms. Nisha Kumari, Adv.

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

03 09-05-2018 This application has been filed for restoration of M.A.
No.354 of 2004 to its original file with the case that the aforesaid
appeal was listed in this Court on 01.08.2017 under the heading
'For hearing under Order-41 Rule-11 CPC'. As the counsel for the
petitioners was busy in Court no.4 in some other matter at that
time the call in the aforesaid appeal could not be responded by
their learned counsel. Consequently, the appeal was dismissed for
non-prosecution of the said case for which the petitioners have not



committed any laches deliberately or intentionally. It was due to reason beyond their control. Learned counsel for the petitioners also submitted to get this appeal listed in the next week as he is ready to advance the argument in the appeal.

From perusal of the record, it appears that the appeal was earlier dismissed on 28.03.2007 but it was restored vide L.P.A. No.765 of 2015 on 28.07.2016.

It is settled principle of law that justice should be done after hearing the parties and injustice should not be done merely on technicality and shutting down the opportunity of hearing to the parties.

In the facts and circumstances of the case, this application is allowed and Misc. Appeal No.354 of 2004 is restored to its original file.

Let M.A. No.354 of 2004 be listed on 16.05.2018 under the heading 'For hearing under Order-41 Rule-11 CPC'.

(Prakash Chandra Jaiswal, J)

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