

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2472 of 2016

In
Miscellaneous Appeal No.748 of 2010

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R.B. Memorial School Of Nursing, Darbhanga through its Secretary Sujay Kumar Mishra, son of Dr. B.N. Mishra, resident of Mohalla R.B. Memorial Hospital, Campus, Benta, P.S. Laheriasarai, Benta (O.P.), District – Darbhanga

... .. Petitioner/s

Versus

1. Dr. Pradeep Kumar Mishra @ Dr. Pradeep Kumar @ Dr. Pradeep Misra , son of Late Parikshit Mishra, resident of Mohalla Rajendra Nagar Road No. 11 – D.P.S. Kadamkuan, Town and District Patna

.....(Respondent Ist Set) ... OPPOSITE IST PARTY

2. Dr. Sandeep Kumar Mishra @ Misra, son of Late Parikshit Mishra, resident of Mohalla Balbhadrapur, P.S. - Laheriasarai, District – Darbhanga

3. Dr. Abha Jha, wife of Mr. Salil Kumar Jha & daughter of Late Parikshit Mishra, resident of Mohalla D-1 HAL Township, Indiranagar Lucknow (U.P.)

..... (Respondent 2nd Set) ... OPPOSITE 2ND PARTIES

4. Estate of Dr. Annapurna Misra @ Mishra through Dr. Pradeep Kumar Mishra @ Dr. Pradeep Kumar @ Pradeep Mishra son of Late Parikshit Mishra, resident of Mohalla Rajendranagar Road no. 11 – D.P.S. Kadamkuan, Town and District Patna

...(Respondent 3rd set) OPPOSITE 3RD PARTY

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhinash Kumar, Advocate

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 21-03-2018 **I.A. No. 1923 of 2018**

Heard Shri Abhinash Kumar, learned counsel for the petitioner.

The present interlocutory application i.e. I.A. No. 1923 of 2018 has been filed under Section 5 of the Limitation Act with a prayer to condone delay in filing restoration petition i.e. M.J.C. No. 2472 of 2016. The said restoration petition was filed



with a prayer to restore Miscellaneous Appeal No. 748 of 2010. On going through the record of Miscellaneous Appeal No. 748 of 2010 it is evident that on number of dates the Appeal was adjourned on the prayer made on behalf of the appellant. Thereafter, continuously on two dates, there was non-appearance, and as such, by order dated 21.06.2012 the Appeal stood dismissed due to non- prosecution. Though the Appeal was dismissed in the year 2012, the restoration petition was filed in the month of July, 2016 and the petitioner has filed interlocutory application for condoning delay in filing restoration petition in the year 2018. Of- course, some reason has been indicated and learned counsel for the petitioner tried to persuade the court that due to unavoidable circumstances the restoration petition was filed belatedly, however, after going through the contents of the limitation petition, I am not satisfied. The limitation petition stands dismissed. Accordingly, the restoration petition too is dismissed.

(Rakesh Kumar, J)

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