

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.732 of 2014

In
Civil Review No.524 of 2012

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1. MANOJ SINGH @ MANOJ KUMAR SINGH
 2. NAWIN SINGH NOS. 1 & 2 SONS OF LATE LAXMI SINGH
 3. MAHESH SINGH
 4. BALESHWAR SINGH
 5. NARESH SINGH NOS. 3 TO 5 SONS OF LATE SHOBHAN SINGH null
 6. RANJAN KUMAR SINGH
 7. PANKAJ KUMAR SINGH NOS. 6 AND 7 SONS OF BALESHWAR SINGH
 8. MUKESH SINGH SON OF MAHESH SINGH
 9. BIKASH SINGH
 10. KRISHNA MURARI SINGH NOS. 9 AND 10 SONS OF NARESH SINGH ALL RESIDENTS OF VILLAGE- GHOSHI, P.S.- SURAJGARHA, DISTRICT- MONGHYR

... .. Petitioner/s

Versus

1. Dinesh Son Of Late Basudeo Singh
2. Anandi Singh
3. Bishundeo Singh
4. Bhagwan Singh Nos. 2 To 4 Sons Of Late Jugal Krishna Singh
5. Baikuntha Singh Alias Umakant Singh Son Of Late Baidya Singh
6. Ganesh Singh
7. Bal Krishna Singh Nos. 6 And 7 Sons Of Anandi Singh
8. Jai Prakash Singh
9. Upendra Singh
10. Vijay Singh Nos. 8 To 10 Sons Of Bishundeo Singh
11. Hari Nandan Singh
12. Rabi Nandan Singh
13. Sahjanand Singh
14. Mritunjay Singh Nos. 11 to 14 Sons Of Bhagwan Singh
15. Mithilesh Kumar Singh
16. Amalesh Singh
17. Chintu Singh Nos. 15 To 17, Minor Sons Of Late Dinesh Singh
18. Singheshwar Singh Son Of Late Satya Naraian Singh
19. Rajesh Singh Son Of Singheshwar Singh All Residents Of Village Ghoshi, P.S.- Surajgarha, District- Munger

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Nikhil Kumar Singh
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH



ORAL ORDER

4 27-09-2018 This application has been filed seeking restoration of Civil Review No. 524 of 2012, which stood dismissed for default on 11.11.2013 for non-compliance of the order dated 21.10.2013.

The ground which has been taken for restoration of the civil review application is that when the matter was listed on 21.10.2013, learned counsel for the petitioners missed to mark the daily cause list. It has been stated that only on 16.01.2014 the learned counsel for the petitioners learnt about the dismissal of the review application for default.

For the purpose of entertaining this restoration application, I have perused the civil review application also. The petitioners had sought for review of the order dated 11.02.2010 passed in S.A. No. 192 of 1994, which reads thus:-

“Office has noted that respondents no. 1 and 4 had died much earlier and for substitution of their heirs, I.A. No. 4844 of 2003 had been filed, but the said interlocutory application for substitution stood rejected due to non-compliance of the specific order of this Court dated 14.10.2009. Although about four months have elapsed since then but no step appears



to have been taken with respect to the said order.

Respondent no. 1 Dinesh Singh was the principal defendant in the title suit and was the sole appellant in the lower appellate court and hence he was the principal respondent and main contesting party in the instant second appeal.

In the said circumstances, the dismissal of this second appeal against the said respondent no. 1 Dinesh Singh has rendered the whole appeal as incompetent. Accordingly, the instant second appeal is dismissed as having become incompetent.”

Learned counsel for the petitioners submits that this Court, while passing the order dated 11.02.2010, committed an error by dismissing the appeal in the absence of any substitution of the deceased respondent no. 1, ignoring the fact that the heirs of respondent no. 1 were already there on record.

I am not inclined to entertain this restoration for the reason that that explanation given in restoration application is not convincing. On perusal of the order, under review, I find that the petitioners, in the garb of seeking review of the order, are seeking re-hearing on the question of correctness of the order dated 11.02.2010. The review proceeding cannot partake



the nature of an appeal in any circumstance.

I do not find any merit in this application, which is,
accordingly dismissed.

(Chakradhari Sharan Singh, J)

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