

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.1054 of 2016

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Kuldeep Kaur.			Appellant/s
	Versus		
Dal Raj Kaur & Ors.			Respondent/s

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Appearance :

For the Appellant/s : Mr. Ambrish Kumar Jha
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL ORDER

5 04-09-2018 This case has been listed under the heading ‘To be Mentioned’ at the instance of learned counsel for the appellant.

Heard the appellant.

From perusal of the record, it appears that the appellant has filed this miscellaneous appeal under Section 299 of the Indian Succession Act for setting aside the judgment and order dated 14.07.2016 passed by 1st Additional District Judge, Araria in contested Probate Case No. 16 of 2013 / Trial No. 4 of 2013.

Division Bench of this Court in the case of **Kusheshwar Purbe vs. Shri Shri 108 Ram Janaki Jee and others** reported in **2017 (3) PLJR 791** has been pleased to rule that the appeals filed under Section 299 of the Indian Succession Act in a contentious proceeding as envisaged under Section 295 shall be treated as First Appeal and would be governed by the



procedure prescribed for such an appeal.

In view of the aforesaid decision of this Court, this miscellaneous appeal filed against the judgment passed in contested probate case is not maintainable rather First Appeal is maintainable against the same.

Hence, appellant is directed to take step for conversion of this miscellaneous appeal into First Appeal in course of the day. Office is directed to take necessary steps forthwith.

(Prakash Chandra Jaiswal, J)

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