

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.123 of 2015

Asha Lata Devi

... .. Appellant/s

Versus

Estate Of Late Dilo Kuar @ Late Dilbaso Kuar And Others

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bal Bhushan Choudhary

For the Respondent/s :

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

ORAL ORDER

2 28-11-2018

Heard learned counsel for 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 dated 07.02.2015 passed by learned 6th Additional District Judge, Nalanda at Biharsharif in contested Probate Case No. 10 of 2012 Title Suit no. 4 of 2012.

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 within one week.

(Prakash Chandra Jaiswal, J)

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