

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.335 of 2012

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Ramadhar Singh & Ors

.... Appellant/s

Versus

Most. Uma Devi & Ors

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. Vijay Shankar Shrivastava

For the Respondent/s : Mr. Nagendra Kumar

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL
ORAL ORDER

23 11-05-2018

Heard the parties.

From perusal of the record, it appears that the appellants have filed this miscellaneous appeal under Section 299 of the Indian Succession Act for setting aside the judgment dated 26.07.1997 passed by 2nd Additional District and Sessions Judge, East Champaran, Motihari in contested Probate Case No. 05 of 1992 / 01 of 1995.

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, appellants are directed to take step for conversion of this Miscellaneous Appeal into First Appeal within two weeks after summer vacation.

(Prakash Chandra Jaiswal, J)

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