

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.259 of 2017

Manoj Kumar Yadav & Anr

... .. Appellant/s

Versus

Sudhir Kumar Yadav & Ors

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Satish Kumar
For the Respondent/s : Mr.

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

ORAL ORDER

2 13-09-2018 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 17.01.2017 passed by IInd Additional District and Sessions Judge, Madhepura in contested Probate Case No. 09 of 2013/CIS No. 197 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.

On the request of learned counsel for the appellants, let the aforesaid miscellaneous appeal be converted into First Appeal during the course of the day.

Office is directed to take necessary steps in this regard.

(Prakash Chandra Jaiswal, J)

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