

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.294 of 2009

Mewa Mahto son of late Bedu Mahto, resident of village Makanpur, Post Office Barara, Police Station Noorsarai, District Nalanda.....[Plaintiff Appellant]

... .. Petitioner

Versus

1. Dhalu Mahto
2. Kashi Mahto
Both sons of late Dayal Mahto
3. Vijay Mahto
4. Sanjay Mahto
5. Naresh Mahto
All Nos. 3 to 5 are sons of Dhalu Mahto
6. Mehal Mahto minor son of Kashi Mahto.
Minor under the guardianship of Sri Prabhat Kumar Rukhaiyar Advocate, G.A.L.
7. Jago Mahto
8. Gajo Mahto
Both are sons of Fagu Mahto
All are resident of village Zinedi, Police Station Silao, District Nalanda.
.....[Defendants-Respondents 1st set]
.....OPPOSITE PARTY 1st SET
9. Chhotan Choudhary son of Sukar Choudhary
10. Anup Choudhary son of Etwari Choudhary
11. Vijay Choudhary
12. Rajendra Choudhary
Both sons of Chhotan Choudhary
13. Shyam Choudhary son of Meghu Choudhary
All are resident of village Mustafapur, Police Station Giriak, District Nalanda.
14. Rameshwar Mahto son of Fakira Mahto
15. Srimati Kaushilya Devi wife of Mewa Mahto
16. Raman Mahto
17. Mangal Mahto
18. Beni Mahto
19. Birji Mahto
20. Pitambar Mahto
All Nos. 14 to 20 are son of Jaso Mahto, resident of village Rahim Chak, Police Station Giriak, District Nalanda... [Performa Defendants-Respondents]
....2nd set Respondents-Opposite Party 2nd set.

... .. OPPOSITE PARTIES

Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH



ORAL ORDER

9 25-10-2018 There is no representation on behalf of the petitioner.

There was a peremptory order passed on 26.07.2000 in S.A. No. 309 of 1995. Non-compliance of the said peremptory order led to dismissal of the appeal for default. It appears that thereafter, the petitioner filed M.J.C. No. 2519 of 2003 for restoration of the Second Appeal, which also stood dismissed for default by an order of this Court dated 03.01.2004. More than five years thereafter, the present restoration application has been filed for restoration of M.J.C. No. 2519 of 2003 which was filed for restoration of S.A. No. 309 of 1995. This is to be noted that the Second Appeal was filed defective and till it stood dismissed for default, five years after its filing, the defects were yet to be removed. An interlocutory application has been filed being I.A. No. 6025 of 2011 seeking condonation of delay of five years in filing the present restoration application. The reason, which has been assigned in the application seeking condonation of delay, is that the petitioner was not aware about dismissal of the restoration application. The explanation, which has been given in the application, is not acceptable to this Court, which, in the Court's view, does not appear to be bonafide.

In any view of the matter, even today when the matter has been called, there is no representation.



This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Pawan/Ragini

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