

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1364 of 2017

In

LPA 805 of 2016

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1. Raj Kumar Sharma @ Raj, S/o Late Basant Lal Das, Resident of Village - Ithari, P.S. Janaki Nagar Dist. Purnea, Chairman of Rupauli North Primary Agricultural Credit Co-operative Society Ltd. Banmankhi, Purnea.
 2. Dilip Yadav, S/o Late Thakur Prasad Yadav, Resident of Village - Koshisharan Devottar, P.S. Banmankhi, Dist. Purnea, Chairman of Koshisharan Devottar Primary Agricultural Credit Co-operative Society Ltd. Banmankhi, Purnea.
 3. Surendra Kumar Suman Yadav, S/o Sri Sitaram Mandal, Resident of Village - Sonma, Balia, P.S. Bhavanipur, Dist. Purnea, Ex-Chariman of Sonma Primary Agriculture Credit Co-operative Society Ltd. Bhavanipur, Purnea.

.... Petitioners

Versus

1. The State of Bihar through its Chief Secretary.
2. The Principal Secretary, Department of Co-operative, Government of Bihar, New Secretariat, Patna.
3. Registrar, Co-operative Society Government of Bihar, Patna.
4. The District Co-operative Officer, Purnea.
5. The Managing Director, The Purnea District Central Co-operative Bank Ltd. Purnea.
6. The Branch Manager, the Purnea District Central Co-operative Bank Ltd., Banmankhi Branch, Purnea.
7. The Branch Manager, the Purnea District Central Cooperative Bank Ltd., Bhavanipur Branch, Purnea
8. Bihar State Food and Civil Supplies Corporation Ltd. through its Managing Director, Sone Bhawan, Birchand Patel Marg, Patna.
9. The Manager of Bihar State Food and Civil Supplies Corporation Ltd. Banmankhi, Purnea.
10. The Manager of Bihar State Food and Civil Supplies Corporation Ltd. Bhavanipur, Purnea.
11. The Block Development Officer cum Officer, Banmankhi, Purnea

.... Opp.Parties

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Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. Raj Ballabh Prasad Yadav- Aag11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

3 10-10-2018

None appears on behalf of the petitioners to press this



restoration application which stood dismissed for non-compliance of peremptory order passed on 27.4.2016, whereby the petitioners were allowed one week's time for removal of the defects. As according to the office, the defects were not removed in its entirety that the appeal has been dismissed under peremptory order and for restoration of which this application is filed.

While learned counsel for the petitioners is absent, Mr. Rakesh Jha, learned counsel appears for the Purnea District Central Cooperative Bank and Mr. Jitendra Kumar, learned AC to AAG-11 appears for the State.

We have perused the records of the appeal as well as pleadings in the restoration application.

Of the several defects, the appellants have removed all the defects within time except that defect no.1 relating to non-impleadment of petitioner no.3 in the connected writ petition, Ramesh Kumar was not carried out. It is for this reason that the office treating it as a failure of compliance of peremptory order so passed treated the application dismissed.

It is mentioned in this restoration application that since the case of petitioner no.3, Ramesh Kumar stood compromised that he has not chosen to prefer the appeal and that is why only three of four petitioners have chosen to question the order of the



learned Single Judge.

In our opinion, if the appellants have removed all the defects within time save and except defect no.1 which is relatable to non-impleadment of petitioner no.3 as according to these appellants he did not chose to pursue the appeal, this cannot be treated as a defect for it is entirely on the appellants to pursue the appeal or not to pursue the appeal. The application has wrongly been dismissed for non-compliance and in the circumstances discussed, L.P.A.No. 805/2016 has wrongly been dismissed for failure of compliance of the order dated 27.4.2016 and is accordingly restored to its original file for its placement before the appropriate Bench.

The restoration application is allowed.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Surendra/-

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