

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.50 of 2019

In
Miscellaneous Appeal No.459 of 2015

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Baidyanath Mishra S/o Late Yasodhar Mishra, R/o Village- Bahilwara @
Gadha, P.O.- Gadha, P.S.- Runnisaidpur, District- Sitmarhi.

... .. Petitioner/s

Versus

1. Gayatri Devi and Ors
2. Savitri Devi,
3. Anpurna Devi,
4. Ichhawati Devi,
5. Sita Devi,
6. Pratima Devi, All R/o Village P.O.- Sonebarsa, P.S.- Bihpur, District- Bhagalpur.
7. Mostt. Sangyan Devi @ Sangya Ojhain,
8. Mukesh Kumar Jha, Res. No.7 and 8 Both are R/o Village- Bahilwara @ Gadha, P.O.- Gadha, P.S.- Runnisaidpur, District- Sitamarhi.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Siddhartha Prasad, Adv

For the Opposite Party/s : Mr.Alok Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 06-02-2019 Heard the learned counsel for the petitioner.

The petitioner has filed the aforesaid application for restoration of Miscellaneous Appeal No. 459 of 2015 to its original file with the case that the said case was listed under the heading “For Hearing under Order 41 Rule 11 CPC” before this Court on 19.12.2018 but as this Court was sitting in the Division Bench at 2:15 P.M. and after hearing the cases fixed in the Division Bench, it also took up number of cases under various headings sitting singly.



Learned counsel for the appellant was waiting for the turn of his case till 3:30 P.M. but, later on, he left the Court for some another Court, under impression that his case will not be taken up by the Court on that day but unfortunately his case was taken up by the Court on the said date and in absence of learned counsel for the appellant in the case on the said date, it was dismissed for non-prosecution. There has been no intentional and deliberate laches on the part of the appellant in dismissal of the aforesaid case.

In the facts and circumstances of the case and finding substance in the submission of learned counsel for the appellant, this MJC application is allowed and the aforesaid miscellaneous is restored to its original file.

(Prakash Chandra Jaiswal, J)

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