

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3290 of 2016

In
SECOND APPEAL No.150 of 2005

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Ram Saran Rai

... .. Petitioner/s

Versus

Surajpati Devi @ Draupadi Devi and Ors

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Dubey
For the Opposite Party/s : Mr.Ajit Kumar

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 02-07-2019 Heard both sides.

This M.J.C. petition is filed for restoration of Second Appeal No.150 of 2005, which was dismissed for default due to non-compliance of peremptory order dated 04.08.2016 by which the substitution petition of the sole respondent was allowed and the appeal notice was directed to be issued to the substituted heirs of deceased sole respondent within two weeks.

Learned counsel for the petitioner submits that unfortunately the record got misplaced and, therefore, he could not comply the peremptory order but when the file was traced, the requisition was filed within a month. The petitioner came to know about the dismissal of the appeal on account of non-compliance of peremptory order dated 04.08.2016 and immediately thereafter filed the present restoration petition.



Learned counsel for the opposite parties, however, opposed the restoration of the second appeal.

Having considered the submissions of learned counsel for the petitioner and the statements made in the petition, I find that the petitioner has satisfactorily explained the reasons for non-compliance of peremptory order dated 04.08.2016. Accordingly, this restoration petition is allowed and Second Appeal No.150 of 2005 is restored to its original file.

(Prabhat Kumar Jha, J)

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