

IN THE HIGH COURT OF JUDICATURE AT PATNA
FIRST APPEAL No.1233 of 1971

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MAHABIR SINGH and ORS

... .. Appellant/s

Versus

SMT. MADHURI DEVI and ORS

... .. Respondent/s

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with

Miscellaneous Jurisdiction Case No. 1453 of 2018

In

FIRST APPEAL No.1233 of 1971

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Mahabir Singh and Ors

... .. Petitioner/s

Versus

Smt. Madhuri Devi and Ors

... .. Opposite Party/s

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with

Miscellaneous Jurisdiction Case No. 1451 of 2018

In

FIRST APPEAL No.1233 of 1971

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Mahabir Singh and Ors

... .. Petitioner/s

Versus

Smt. Madhuri Devi and Ors

... .. Opposite Party/s

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Appearance :

(In FIRST APPEAL No. 1233 of 1971)

For the Appellant/s : Mr. Nirajan Kumar, Adv.

For the Respondent/s : Mr. Waliur Rahman, Adv.

(In Miscellaneous Jurisdiction Case No. 1453 of 2018)

For the Petitioner/s : Mr. Arun Kumar Sinha

For the Opposite Party/s : Mr.

(In Miscellaneous Jurisdiction Case No. 1451 of 2018)

For the Petitioner/s : Mr. Arun Kumar Sinha, Adv.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

57 26-07-2019

Ref: M.J.C. No.1451 of 2017 & 1453 of 2017



Heard learned counsel for the applicants and the learned counsel for the respondents.

A counter affidavit has been filed to the applications which have been captioned “seeking restoration of I.A. No.6481 and I.A. No.6482 of 2017. The said applications were dismissed for non-prosecution on 2nd of April, 2018 vide order No.53.

It is correct that the prayer in both the applications are not happily worded, yet the applications intend to make a request to the Court for recall of the order dated 2nd of April, 2018.

This Court has perused the counter affidavit filed on behalf of the respondents indicating that the order of abatement against the legal heirs of the deceased respondent No.14 has been recorded.

Having considered the submission, the Court is of the opinion that these two applications should be treated as recall applications keeping in view the fact that procedure is the handmade of justice and not the master of the Court.

Consequently, both the applications are allowed and the order dated 2nd April, 2018 dismissing I.A. Nos.6481 and 6482 of 2017 is recalled.



Ref: F.A. No.1233 of 1971

Since the matter has been running on the list currently before the Hon'ble Judge who has already demitted the office and the 1st Appeal is of the year 1971, it is hereby directed that in the event any other applications are required to be filed with regard to any substitution or otherwise, the same may be concluded within two weeks from today. The appeal shall now be listed before the Bench dealing with 1st Appeals in the current roster at the top of the list. As the appeal is of the year 1971, it is made clear that no further time shall be granted keeping in view the status of the litigation as indicated above which arises out of a suit filed in the year 1963.

List after 15 days on 19.8.2019.

(Amreshwar Pratap Sahi, CJ)

K.C.Jha/-

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