

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.209 of 2016

Sumitra Kumari

... .. Appellant/s

Versus

The Estate Of Late Tor Narain Singh and Anr

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Raj Kishore Prasad
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

4 29-07-2019 Heard the parties.

From perusal of the record, it appears that the appellant has filed this miscellaneous appeal under Section 299 of the Indian Succession Act for setting aside the judgment dated 21.11.2015 passed by learned VI, Additional District and Sessions Judge, Nalanda, Bihar Sharif in contested Probate Case No. 09 of 2004.

Division Bench of this Court in the case of Kusheshwar Purbe vs. Shri Shri 108 Ram Janaki Jee and others reported in 2017 (3) PLJR 791 has been pleased to rule that the appeals filed under Section 299 of the Indian Succession Act in a contentious proceeding as envisaged under Section 295 shall be treated as First Appeal and would be governed by the procedure prescribed for such an appeal.

In view of the aforesaid decision of this Court, this



miscellaneous appeal filed against the judgment passed in contested probate case is not maintainable rather First Appeal is maintainable against the same.

Hence, appellant is directed to take steps for conversion of this Miscellaneous Appeal into First Appeal within eight weeks.

(S. Kumar, J)

Sanjay/-

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