

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3252 of 2018

In
Miscellaneous Appeal No.478 of 2004

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1. Binda Devi Wife of Late Baleshwar Singh,
 2. Fulbadan Devi @ Kulbadan Devi, Wife of Late Ganesh Sharma,
 3. Deepak Kumar,
 4. Sunil Kumar, Both 3 & 4 sons of Late Ganesh Sharma,
 5. Rubi Devi,
 6. Rinki Devi, Both 5 & 6 daughters of Late Ganesh Sharma,
 7. Aas Kumar Sharma, Son of Late Baleshwar Singh, all residents of Village- Ram Nagar, Raghapur, P.S.- Bihta, District- Patna.

... .. Petitioner/s

Versus

1. Naresh Nonia Son of Inder Nonia, Resident of Vilage- Ram Nagar, Raghapur, P.S.- Bihta, District- Patna.
2. Smt. Kunti Devi, Daughter of Inder Nonia, Wife of Janeshwar Chauhan, Resident of Village- Januhara, P.S.- Daudnagar, District- Aurangabad.
3. Naresh Singh, Son of Inder Nonia, Residents of Village- Ram Nagar, Raghapur, P.S.- Bihta, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nalin Vilochan Tiwary
For the Opposite Party/s : Mr. Lakmesh Marvind

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

5 24-04-2019 Heard learned counsel for the petitioner.

This M.J.C. application has been filed by the appellants-petitioners for restoration of M.A. No. 478 of 2004 to its original file with the case that the aforesaid appeal was earlier dismissed for non-compliance of the order dated 07.07.2010 which was restored on 11.05.2017 and after restoration, it was listed on 11.09.2017 and against it was



dismissed on 18.09.2017. The appellants were waiting for the listing of the appeal, but as the name of the learned counsel of the appellants in the list appeared as 'S. Pandey' (previous counsel of the appellants) and due to inadvertence the case could not be marked. Hence, none appeared in the case on the said date, and accordingly, the aforesaid appeal was dismissed on 18.09.2017. However, on 28.08.2018, the appellants learnt about dismissal of the aforesaid appeal on the basis of rumour in the locality about winning of the case by the respondents. Then he got the matter inquired and learnt the actual state of affairs and filed this restoration petition. There is no deliberate and intentional laches on the part of the appellants-petitioners in dismissal of the aforesaid case.

The opposite parties did not file any rejoinder despite service of notice.

Having regard to the facts and circumstances and in the interest of justice, the M.A. No. 478 of 2004 is restored to its original file and the present M.J.C. application is allowed.

(Prakash Chandra Jaiswal, J)

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