

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.127 of 2016

1.Madan Singh @ Madandhari Sharma
2.Baleshwar Singh @ Baleshwar Sharma
3. Ram Udai Singh sons of Sarjug Singh.
4.Rajan Singh s/o Babu Chandeshwar Singh
5.Chandra Singh @ Chandrama Singh s/o Rajan Singh.
6.Kariman Singh s/o Mandan Singh
All resident of village Aspura, P.S./ Bikram, District Patna.

... .. Petitioner/s

Versus

1.Arjun Sao s/o Late Halkhori Kandhu.
2.Jitendra Sao s/o Arjun Sao.
3.Ramakant Sao s/o Surajnath Sao.
4.Sivakant Sao s/o Surajnath Sao.
All resident of village Aspura, PS Bikram, District Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Usha Rai
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 15-04-2019

Heard learned counsel for the parties.

2. This civil revision petition has been filed for setting aside the order dated 14.09.2015 passed in Miscellaneous Case No. 14 of 2012 / Trial No. 2 of 2014 by Additional District & Sessions Judge-V, Danapur, by which the learned court below has dismissed the restoration petition filed by petitioners.

3. Petitioners preferred Title Appeal No. 21 of 1988



before the District Judge, Patna, against the judgment and decree dated 30.11.1987 passed in T.S. No. 95 of 1979 / 59 of 1987 by Sub-Judge-VII, Patna. The appeal was transferred in the FTC-V, Patna. It has been submitted that after creation of court of Additional District Judge, Danapur, Title Appeal No. 21 of 1988 was transferred to the court of Additional District Judge, Danapur, vide memo dated 07.09.2009, by which order of District Judge, Patna, and the same was received in the office of Additional District Judge, Danapur, on 09.11.2009 and date was fixed for hearing of the appeal on 19.02.2010. No notice was issued to petitioners (appellants) with respect to fixing of date of hearing of appeal, as such they could not appear in the appeal. Petitioner thereafter became ill and after recovery contacted his lawyer in December-2010 who inform him that appeal has been transferred to the Court of Danapur, as such he is not aware regarding status of appeal and thereafter he went to Civil Court, Danapur, but could not succeed in getting information about the Title Appeal and thereafter filed information petition on 17.08.2012, and was informed that appeal stood dismissed for default on 16.03.2011 and thereafter he inspected the record on 26.09.2012. Petitioner thereafter filed a miscellaneous case for restoration of Miscellaneous Case No.



14 of 2012 / Trial No. 02 of 2014, in which notices were sent to opposite parties and they had appeared.

4. Learned court below has observed that the present appeal was transferred from the FTC-IV, Patna, to the court of Additional District Judge, Danapur, on 09.11.2009 and was received at Danapur on 19.02.2010 and remained pending for more than one year and petitioner did not appear on the date fixed for hearing of appeal and as such it was dismissed for default on 16.03.2011, against which petitioner had filed this miscellaneous case for readmission of appeal.

5. In the miscellaneous case also applicants had not filed their attendance on 03.01.2015 and 23.05.2015 and no witnesses were produced on their behalf as such the miscellaneous case was dismissed. The appellate court has also noted that previously also the appeal was dismissed for default on 22.11.1994 and petitioners had filed Miscellaneous Case No. 01 of 1994 and same was allowed and Title Appeal No. 21 of 1988 was restored but thereafter petitioners again left doing pairvi as a result of which it was dismissed for default on 16.03.2011. Applicant had concealed this fact of earlier dismissal of appeal in default and the learned appellate court has held that petitioners have not filed attendance on 03.01.2015 and



25.03.2015 and have also not produced any witness in the miscellaneous case and as such dismissed the miscellaneous case against which present revision has been filed.

6. After hearing learned counsel for the parties and perusing the order passed by the appellate court dismissing the miscellaneous case filed by petitioner for re-admission of Title Appeal No. 21 of 1988, this Court does not find any illegality, irregularity or error in the order passed by the appellate court. Petitioners have been reckless and negligent in pursuing their appeal and as such, the petition is not bona fide and accordingly, the present civil revision petition is dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29.04.19
Transmission Date	N.A.

