

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.2 of 2015

Kamal Sah and Ors

... .. Appellant/s

Versus

Ramchandra Sah and Ors

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Vijay Shankar Shrivastava
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

9 29-07-2019 Heard learned counsel for the appellants.

From perusal of the record, it appears that the appellants have filed this miscellaneous appeal under Section 299 of the Indian Succession Act for setting aside the judgment dated 06.11.2014 passed by Additional District and Sessions Judge-IX, East Champaran, Motihari in contested Probate Case No. 01 of 1998 / 01 of 2014.

A Division Bench of this Court in the case of **Kusheshwar Purbe vs. Shri Shri 108 Ram Janaki Jee and others** since 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 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, learned counsel for the appellants is directed to take steps for conversion of this Miscellaneous Appeal into First Appeal within eight weeks.

(S. Kumar, J)

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