

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4244 of 2018

In
First Appeal No.40 of 2011

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Brajesh Rai Roy

... .. Petitioner/s

Versus

The State Of Bihar and Ors

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Chandra Sen Prasad Singh

For the Opposite Party/s : Mr.Prabhat Kumar Verma - Aag 3

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 13-02-2019

I.A. No. 9428 of 2018

This Interlocutory Application has been filed for
condoning the delay in filing instant restoration application.

The delay in filing of M.J.C. is hereby condoned. I.A.
No. 9428 of 2018 is accordingly allowed.

M.J.C. 4244 of 2018

The instant application has been filed for restoration
of First Appeal No. 40 of 2011, which was dismissed for default
by order dated 08.02.2018 passed in aforesaid First Appeal.

Learned counsel for the appellant has submitted that
appellant was plaintiff in the court below. He had filed suit for
recovery of his dues amount from the defendants, which was
dismissed.

Learned counsel for the appellant has submitted that



he will suffer irreparable loss if the appeal is not restored to its original file. It is further submitted that order of the Court dated 03.01.2018 could not be complied because of laches on the part of Advocate Clerk. Now the aforesaid order has been complied.

The counsel for appellant has already served copy of MJC application to counsel for State.

None has appeared on behalf of State although name of counsel for State is appearing on the list.

In such circumstances, F.A. No. 40 of 2011 is restored to its original file.

F.A. No. 40 of 2011 is admitted.

Issue appeal notice to the respondents in First Appeal for which requisites under ordinary process as well as registered cover with A/D must be filed within two weeks.

Put up with service report along with record of F.A. No. 40 of 2011 after four weeks on 13.03.2019.

(Sanjay Priya, J)

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