

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.110 of 2014

Kumar Kashwendra @ Baban Singh and Anr.

... .. Appellant/s

Versus

Ramesh Kumar Singh and Ors.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sanjeev Kumar Mishra, Adv.
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

14 05-08-2019

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 14.07.2010 passed by learned District Judge, Vaishali at Hajipur in Probate Case No. 02 of 2009.

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 four weeks.

(S. Kumar, J)

Rajiv/-

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