

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.92 of 2017

In
FIRST APPEAL No.622 of 1974

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Mithila Sharan Singh, son of late Raghubir Singh, resident of village-Sheikhpura, P.S.- Gardanibagh, P.O. Veterinary College, District- Patna.

... .. Petitioner/s

Versus

Sita Sharan Singh, son of late Raghubir Singh, resident of village-Sheikhpura, P.S.- Gardanibagh, P.O. Veterinary College, District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : None

For the Opposite Party/s : Mr. Shambhu S. N. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

22/ 27-02-2019

This MJC has been filed for restoration of First Appeal No.622 of 1974, which was dismissed in default by order dated 28.08.2003 due to non appearance of counsel and non-prosecution of appeal.

None appears on behalf of the petitioner.

From perusal of record of First Appeal No.622 of 1974, it appears that original judgment and decree in Title Partition Suit No.59/22 of 1968/1974 was passed on 30.07.1974, which was under challenge in First Appeal No.622 of 1974.

The appeal was dismissed on 28.08.2003 since nobody appeared for hearing of appeal on behalf of appellant on repeated calls.



It further appears that this MJC application has been filed in the year 2017 after delay of more than fourteen years from the date of dismissal of the appeal in the year 2003. The appellant has not given any valid and genuine reason for delay in filing the application.

Counsel for the Opposite Party No.2 has appeared. He has filed Counter Affidavit. He submits that there is delay of fourteen years in filing the restoration application without any valid explanation.

From the statement made in this restoration application as well as fact that restoration application has been filed after delay of fourteen years without giving any valid and genuine reason, this Court does not find any merit in the instant petition.

In view of such, this restoration application is dismissed.

I. A. No.1061 of 2017 filed under Section 5 of the Limitation Act for condonation of delay is also hereby dismissed.

(Sanjay Priya, J)

J. Alam/-

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