

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10626 of 2014**

**In**  
**CIVIL REVISION No.68 of 2014**

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1. (a) Mamta Kuer, wife of Niraj Kumar Singh  
2. Rajesh Kumar Singh, son of Late Rameshwar Prasad Singh  
3. Dhiraj Kumar Singh, son of Late Rameshwar Prasad Singh  
All resident of Village- Dharupur, P.S.- Bikramganj, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Rohtas, At, Post Office and P.S.-  
Sasaram, District- Rohtas.  
2. Anchal Adhikari, Bikramganj, At, Post Office and P.S.- Bikramganj,  
District- Rohtas

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Binod Bihari Singh, Advocate  
For the Respondent/s : Mr. Sanjay Kumar, AC to SC-8

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**  
**ORAL ORDER**

4      10-04-2019

**Ref.: I.A. No. 9439 of 2014**

In the instant writ application an interlocutory application, bearing I.A. No. 9439 of 2014, has been filed for expunging the name of petitioner no.1, namely, Niraj Kumar Singh and in his place name of his widow, namely, Mamta Kuer, may be substituted.

2. For the reasons stated in the interlocutory application, I.A. No. 9439 of 2014 is allowed.

3. Let the name of petitioner no.1, namely, Niraj Kumar Singh, be expunged and in his place his wife, namely, Mamta Kuer, be substituted as petitioner no.1(a) in the array of



petitioners.

4. Heard learned counsel for the petitioners and the State.

5. The petitioners have challenged the order passed by the District Judge, Rohtas at Sasaram in Title Appeal No. 81 of 2013.

6. The short question of law raised by the petitioners in the instant writ application is whether the learned District Judge was justified in admitting the title appeal without condonation of delay of 23 years and without opportunity of hearing to the petitioners.

7. Law of limitation has definite role to play in the matter of filing appeal. If the Title Appeal No. 81 of 2013 was filed after 23 years, then the appeal itself was barred by limitation and limitation cannot be condoned without hearing the parties likely to be adversely affected in the proceeding. There is admitted factual position that the petitioners were the necessary party and decree was in favour of the petitioners and as such before condonation of delay they were required to be heard.

8. In any view of the matter, the Appellate Court was not justified in admitting the appeal only because the State is



appellant. It is well settled that the State is not favourable litigant and for the appellate court every litigant is same. The exercise of jurisdiction by the Appellate Court (District Judge, Rohtas) in admitting the Title Appeal no. 81 of 2013 without issuance of notice to the petitioners and without condonation of delay is totally without jurisdiction and cannot be sustained.

9. Accordingly, the order dated 15.01.2014 is hereby set aside and the matter is remitted back to the District Judge, Rohtas at Sasaram for appropriate decision in T.A. No. 81 of 2013 after opportunity of hearing to the petitioners.

10. It goes without saying that the Appellate Court will first decide the issue of condonation of delay and thereafter pass any order in title appeal. Since, this is an old matter, the appellate court is required to decide the issue on priority basis within a period of forty five days from the date of receipt/production of a copy of this order.

11. With the aforesaid, this application stands disposed of.

**(Anil Kumar Upadhyay, J)**

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