

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.173 of 2018
In
Miscellaneous Appeal No.611 of 2013

1. Sukhdeo Pandey

2. Shivdeo Pandey

Both sons of Late Uma Nath Pandey, resident of village- Sahara Dariapur, Police Station- Fatwah, District- Patna at present residing at Mohalla- Gudada also Patna at present residing at Mohalla- Gudada also known as Langoor, Durukhi Gali Chowk, Patnacity, P.S. Chowk, District- Patna.

... .. Petitioner/s

Versus

1. Smt. Sharda Devi, Wife of Shir Suresh Chaturvedi, resident of Mohalla- Talimpur, P.S. Barh, District- Patna.

2. The Executive Officer, Patna Municipal Corporation, Patnacity Anchal having its Office situated at Mohalla- Alamganj, P.S. Alamganj, P.O. Gulzarbagh, District- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Braj Nandan Singh, Adv.

For the Respondent/s : Mr.Surendra Kishore Verma, Adv.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
CAV JUDGMENT

Date : 26-07-2019

Heard the parties.

2. This civil revision petition has been filed for setting aside the order dated 18.07.2013 passed by Adhoc Additional District Judge 1st Patna, passed in Misc. Case No. 06 of 2001 by which Misc. Case filed under Order 41 Rule 19 read with section 151 of C.P.C. was dismissed.

3. Plaintiff/respondent no.1 filed Title Suit No.



332 of 1991 against defendant petitioner for declaration of her title and recovery of possession over the suit properties and same was decreed on contest by the court of Sub-Judge-VII Patna on 28.08.1991.

4. Aggrieved by said judgment and decree defendant petitioners preferred Title Appeal No. 17 of 1992 and during pendency of said appeal appellant no.2 Basudev Pandey died on 02.12.1998 and thereafter substitution petition was filed on 05.03.1999. Respondent no. 3 also died on 05.06.1999 for which substitution petition was filed on 02.09.1999 and both substitution petitions remained pending before the Appellate Court.

5. The title appeal of defendant/petitioners was dismissed for default on 14.12.2001 and petitioners filed Misc. Case No. 06 of 2001 for re-admission of appeal which was also dismissed for default on 21.08.2003 and thereafter Misc. Case No. 14 of 2004 was filed for restoration of Misc. Case No. 06 of 2001 which was allowed by order dated 26.07.2010 and Misc. Case No. 06 of 2001 was restored to its original file.

6. In support of their Miscellaneous Case petitioners examined 2 witnesses who are AW-1 Rajkumar



Giri, who is a formal witness and AW-2 Sukhdev Pandey who is petitioner no.1. The appellate Court has held that nothing has been brought on record in support of ailment of petitioners which prevented them to do pairvi in the appeal as a result of which their appeal was dismissed for default.

7. Petitioners have filed an application in miscellaneous case to stay the proceedings of Execution Case No. 06 of 1992 by plaintiff/decree holder during pendency of Miscellaneous Case and Execution Case was stayed during pendency of Miscellaneous Case.

8. Petitioners have been reckless and negligent and have shown the least interest in disposal of their appeal and after dismissal of Title Appeal they filed Misc. Case for re-admission of Title Appeal which was also dismissed for default for which they filed another Miscellaneous Case which was restored. However, petitioners have been successfully in getting the Execution Case of plaintiff/decree-holder stayed during all these years and deprived plaintiff decree-holder from the fruits of decree.

9. This court does not find any jurisdictional error or irregularity by the appellate court in dismissing the Miscellaneous Case for restoration/re-admission of Title



Appeal, Accordingly, the civil revision is dismissed.

Let the LCR be returned forthwith.

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	14.05.19
Uploading Date	27.07.19
Transmission Date	NA

