

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.624 of 2019

Deepak Khetan

... .. Appellant/s

Versus

Puspa Devi

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shashi Bhushan Pandey
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

2 16-09-2019 Heard.

From perusal of the record, it appears that the appellant has filed this miscellaneous appeal under Section 276 of the Indian Succession Act for setting aside the judgment dated 31.05.2019 passed by 14th Additional District and Sessions Judge, East Champaran at Motihari, in contested Probate Case No. 26 of 2010 (CIS No. 7134 of 2016).

A Division Bench of this Court in the case of **Kusheshwar Purbe vs. Shri Shri 108 Ram Janaki Jee and others** reported in **2017 (3) PLJR 791** has been pleased to rule that the appeals filed under 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 an 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, appellant is directed to take steps for conversion of this Miscellaneous Appeal into First Appeal within four weeks.

(S. Kumar, J)

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