

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.4229 of 2016

In

Miscellaneous Appeal No.544 of 2012

Ram Ayodhya Choudhary @ Yodha Sahni and Anr

... .. Petitioner/s

Versus

Awadhesh Thakur and Anr

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Shri Avinash, Advocate

For the Opposite Party No. 2: Shri Ashok Priyadarshi, Advocate

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

3 24-07-2019

Heard Sri Avinash, learned counsel for the appellants

– petitioners and Shri Ashok Priyadarshi, learned counsel who has appeared on behalf of United India Insurance Co. Ltd./ opposite party no. 2.

The present petition has been filed with a prayer to restore Miscellaneous Appeal No. 544 of 2012, which was initially dismissed due to non compliance of peremptory order. The peremptory order was passed in Miscellaneous Appeal No. 544 of 2012 on 17.11.2014 whereby learned counsel for the appellants was granted one week time for removing defects however, since defects were not removed, the Miscellaneous Appeal No. 544 of 2012 stood dismissed in 2014 itself. Subsequently, a restoration petition was filed vide M.J.C. No. 2123 of 2015, which was allowed on 16.09.2015 with a rider that defects pointed out in Miscellaneous Appeal No. 544 of 2012 must be complied within three weeks, failing which, the Miscellaneous Appeal No. 544 of 2012 was required to be dismissed without further reference to Bench. Again defects were not removed, and as such, Miscellaneous Appeal No. 544



of 2012 stood dismissed due to non -compliance of peremptory order dated: 16.09.2015 passed in M.J.C. No. 2123 of 2015. Again after lapse of more than a year, the present petition has been filed for restoration of Miscellaneous Appeal No. 544 of 2012. Of- course, at the time of hearing on restoration petition there is no requirement to consider the case on merit, but Shri Ashok Priyadarshi, learned counsel for the United India Insurance Co. Ltd. tried to persuade the Court that it was a case of hit and run and earlier Rs. 50,000/- was already paid to the appellants as interim compensation under Section 140 of the Insurance Act.

Be that as it may, without dealing with the restoration petition on merit, considering the fact that defects which were pointed out at initial state in Miscellaneous Appeal No. 544 of 2012 were not removed despite one indulgence granted by way of allowing earlier restoration petition, the Court is of opinion that no purpose would be served in allowing the present restoration petition.

The restoration petition stands dismissed.

(Rakesh Kumar, J)

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