

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.597 of 2013

Arun Kumar Yadav

... .. Appellant/s

Versus

Chandra Kishore Yadav and Ors.

... .. Respondent/s

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

8 16-08-2019 Heard.

From perusal of the record, it appears that the appellant has filed this miscellaneous appeal under Section 299 of the Indian Succession Act for setting aside the judgment dated 03.10.2012 passed by 1st Additional District and Sessions Judge, Madhepura, in contested Probate Case No. 10 of 1991.

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 Section 299 of the 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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