

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2683 of 2018

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1. Md. Islam Ansari, son of Md. Isa,
 2. Most. Raushan Aara, wife of late Abdullah,
 3. Md. Arshad Abdullah, minor son of late Abdullah under the guardianship of his mother, Raushan Aara,
All resident of village- Tektar, P.S.-Kamtaul, District-Darbhanga

... .. Petitioner/s

Versus

1. Md. Isa, son of late Abdul Subhan, resident of village- Tektar, P.S.- Kamtaul, district- Darbhanga,
2. Md. Yusuf Raza,
3. Md. Binyamin Ansari,
4. Md. Jainbul Abdin,
5. Md. Ahsan Tauhid, now as major,
6. Md. Mohiuddin, now as major,
7. Bibi Anwari Khatoon, wife of Md. Isa, all resident of village- Tektar, P.S.-Kamtaul, P.S.-Madhpur, District-Darbhanga,
8. Md. Abdul Mutalib, son of Md. Isa, resident of village- Tektar, P.S.- Kamtaul, P.S.-Madhpur, District-Darbhanga

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Abu Haidar, Advocate
For the Opposite Party/s :

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3/ 11-02-2019 This application has been filed for restoration of First Appeal No.81 of 2003, which has been dismissed for non-compliance of the order dated 08.12.2017.

Counsel for the petitioners submits that by order dated 08.12.2017 passed in First Appeal No.81 of 2003, for not taking steps for fresh service of appeal notice on respondent nos.2, 4, 5 and 8 under Speed Post with A.D at their correct and present address, aforesaid First Appeal was dismissed in default.



Counsel for the petitioners submits that he has already filed appeal notices on Respondent Nos.2, 4, 5 and 8. He further submits that notice was filed after getting knowledge of the aforesaid order of the Court on 05.04.2018.

Counsel for the petitioners further submits that petitioner No.1 is the only pairvikar in the appeal. In the intervening period, he was occupied with some important work in the family. Therefore, restoration application could not be filed earlier. I. A. No.9739 of 2018 has been filed for condoning the delay in filing the instant restoration application.

I.A. No.9739 of 2018:

This Court after considering the reasons given in aforesaid Interlocutory Application is satisfied that due to bonafide reasons delay has occurred in filing the instant restoration application.

Therefore, I. A. No.9739 of 2018 is allowed and delay in filing the Restoration Application is condoned.

MJC No.2683 of 2018:

For the reasons stated in the petition, this restoration application is allowed and First Appeal No.81 of 2003 is restored to its file.

Office is directed to issue appeal notice to Respondent



Nos.2, 4, 5 and 8, the requisites for which have already been filed by the counsel for the appellants.

This restoration application is, accordingly, allowed.

Put up First Appeal No.81 of 2003 on 14.03.2019 with the report of service of notice on the aforesaid respondents.

The office is directed to tag this record with the record of First Appeal No.81 of 2003.

(Sanjay Priya, J)

J. Alam/-

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