

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1278 of 2017

In
SECOND APPEAL No.268 of 2010

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Sher Mohammad Khan, son of Late Suleman Khan, Resident of Village +
P.O.- Bhagalpur, Police Station- Piro, District- Bhojpur.

... .. Petitioner/s

Versus

1. Anisha Khatoon wife of Late Haji Noor Mohammad Khan
2. Nizat Ahmad Khan, son of Late Haji Noor Mohammad Khan
3. Chanda Bano, wife of Sarfuddin Khan
4. Rasda Khatoon, wife of Jaeab Khan
5. Sahida Khatoon
6. Sama Bano,
Both daughter of Late Haji Noor Mohammad Khan,
All Resident of Village- Bhagalpur, P.O and P.S.- Piro, District- Bhojpur.
7. Julekha Khatoon, Wife of Sarif Khan and daughter of Late Suleman Kha,
Resident of Village - Bhagalpur, Police Station- Piro, District- Bhojpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Lokesh Kumar Singh, Advocate

For the Opposite Party/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

3 09-12-2021 The instant petition stands filed for restoration of

S.A.No. 268 of 2010, titled as **Sher Mohammad Khan Vs.**
Anisha Khatoon & Ors., which stood dismissed for want of
prosecution vide order dated 24.07.2014 for non-compliance of
the order dated 10.07.2014 passed by a co-ordinate Bench of
this Court.

Plaintiff's challenge to the cancellation of a
document dated 12.08.1978, did not find favour with the trial
court resulting into dismissal of the title suit. As also the title
appeal arising therefrom. The judgment and decree passed by



the trial court stands affirmed by the appellate court.

The Second Appeal assailing the said judgment was registered as S.A.No. 268 of 2010, titled as **Sher Mohammad Khan vs. Anisa Khatoon & Ors.**, and the appellant did not pursue the same which was dismissed for non-prosecution as defects pointed out by the registry from time to time, for over a period of one and half year, were not removed. Even otherwise, instant application for restoration of Second Appeal was filed on 25.04.2017. Three paragraphs petition does not explain the reasons for removal of the defects; delay in filing the application. Litigation must come to an end at some stage. Litigant is not an illiterate/rustic person; not prevented from taking recourse to the remedies provided under law. He ought to have been vigilant in pursuing the matter.

As such, instant application is dismissed.

(Sanjay Karol, CJ)

Sujit/Ashwini

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