

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4219 of 2016

In
Miscellaneous Jurisdiction Case No.5273 of 2012

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1. Jimidar Rai, Son of Ram Sundar Rai
 2. Subedar Rai, Son of Ram Sundar Rai
 3. Malwar Rai, Son of Samujhlal Rai.
 4. Ramvishwash Rai, Son of Late Samujhlal Rai.
All Resident of village - Kumhra Bishanpur, Tole - Hariharpur, P.S.
Dumra, District - Sitamarhi

... .. Petitioners

Versus

1. Brahmdeo Mahto and Anr Son of Late Ram Bahadur Mahto, Resident of
village - Kumhra Bishanpur, Tole - Hariharpur, P.S. Dumra, District -
Sitamarhi
2. The State of Bihar through the Collector, Sitamarhi

... .. Opposite Parties

Appearance :

For the Petitioner : Mr. Sanjay Kumar, Advocate
For the Opposite Parties : Mr.

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 29-07-2022 This restoration application has been filed for
restoration of M.J.C. No.5273 of 2012 (Restoration) which was
dismissed for default on 08.05.2013.

M.J.C. No. 5273 of 2012 was filed for restoration
of Civil Revision No.1614 of 2007, which was dismissed for
non-compliance of peremptory order dated 07.10.2020.

The Civil Revision No. 1614 of 2007 was filed
against the order dated 04.07.2007 passed by Munsif Sadar,
Sitamarhi, in Title Suit No. 112 of 2001, by which the Court



below has rejected the application for amendment in written statement filed by the petitioner.

On 07.10.2020, the following order was passed in Civil Revision No.1614 of 2007:-

*“It is submitted on behalf of the petitioners that in view of the law laid down by the Apex Court in **Shiv Shakti Coop. Housing Society, Nagpur Vs. Swaraj Developers and others**, reported in (2003) 6 Supreme Court Cases 659 and **Surya Dev Rai vs. Ram Chander Rai and others**, reported in (2003) 6 Supreme Court Cases 675 as well as by a Division Bench of this Court in **Durga Devi vs. Vijay Kumar Poddar**, reported in 2010(2) PLJR 954, this Revision would not be maintainable. Thus, learned counsel seeks permission to convert this Civil Revision into a Writ Petition under Article 227 of the Constitution of India.*

Leave is granted.

Let the petitioners convert this Civil Revision into a Writ Petition under Article 227 of the Constitution of India within three weeks after Durga Puja Holidays, failing which this Civil Revision shall stand rejected as not maintainable without further reference to a Bench”.

From the order dated 07.10.2010, it appears that the aforesaid Civil Revision itself was not maintainable.

In the opinion of this Court, restoration of a Civil



Revision which is not maintainable is a futile exercise and unnecessary wastage of time of High Court and its resources.

Accordingly, M.J.C. No. 4219 of 2016 is dismissed. Consequently, M.J.C. No. 5273 of 2012 and Civil Revision No.1614 of 2007 shall also stand dismissed.

(Sandeep Kumar, J)

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