

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2018 of 2019

In
CIVIL MISCELLANEOUS JURISDICTION No.821 of 2016

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Krishna Kumar Dubey @ Tuntun Dubey S/o Late Shiv Shankar Dubey
Resident of Village- Katahariaya, P.S.- Kalyanpur, District- East Champaran
and others.

... .. Petitioner

Versus

Nila Devi W/o Ramji Singh Resident of Village- Jasaulipatti, P.S.- Kotawa,
District- East Champaran and others.

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 10-08-2022 Heard Mr. Sanjay Kumar, learned counsel for the
petitioner.

This application has been filed on behalf of the
petitioner for restoration of M.J.C. No. 3661 of 2016 which was
dismissed for non-prosecution on 01.05.2019.

The matter was placed before the Lawazima Board on
22.10.2021. Vide order dated 22.10.2021, the Lawazima Board
directed the petitioner to remove the defect nos. 5, 9, 31, 37, 50
and 54 by 13.08.2021. Though the petitioner removed the defect
no. 5, defect nos. 9, 31, 37, 50 and 54 have not been removed
till date.

The aforesaid M.J.C. No. 3661 of 2016, which was
dismissed for want of prosecution by this Court on 01.05.2019



was filed for restoration of Civil Miscellaneous No. 821 of 2016 which too was dismissed for want of prosecution on 04.10.2016.

The Civil Miscellaneous No. 821 of 2016 was filed under Article 227 of the Constitution of India by the petitioner challenging the order dated 11.03.2015 passed by the learned Sub Judge-VI, East Chmparan in Execution Case No. 5 of 2008.

Mr. Sanjay Kumar, learned counsel for the petitioner submitted that M.J.C. No. 3661 of 2016 was dismissed for want of prosecution on 01.05.2019 because the counsel for the petitioner was not in Patna. He contended that in case the M.J.C. application would not be restored, the petitioner would suffer irreparable loss and injury.

In the opinion of this Court, no cogent reason has been given by the petitioner for restoring M.J.C. No. 3661 of 2016 which too was filed for restoration of original Civil Miscellaneous No. 821 of 2016. Apparently, the petitioner does not appear to be vigilant in the case. He is repeatedly defaulting in appearing before the Court when the matter is taken up and after dismissal of the case, filed restoration application. In this way, he is keeping the matter pending since 2016 in an Execution Case which was filed in the year 2008. There is no statement in the M.J.C. application that the Execution Case is



still pending before the concerned court. Moreover, the petitioner has not bothered to remove the defects pointed out by the registry in spite of the order passed by the Lawazima Board on 22.10.2021.

In that view of the matter, I am not inclined to allow the application.

It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

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