

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16573 of 2021

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Suba Singh son of Late Churaman Singh Resident of Village- Dumari Chapia,
P.S.- Taraiya, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Saran at Chapra.
2. The District Magistrate, Saran at Chapra.
3. The Sub- Divisional Magistrate, Marhowrah, District- Saran.
4. The Sub- Registrar, Mashrak, District- Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Dr. Rajesh Kumar Singh, Advocate
For the Respondent/s	:	Mr. Md. Kamil Akhtar, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 24-11-2022

The present writ petition has been filed for quashing the order dated 04.05.2020, passed by the learned Commissioner, Saran Division, Chapra in Stamp Appeal Case No. 40 of 2017, whereby and whereunder the appeal has been dismissed on account of non-prosecution.

The petitioner has also prayed for quashing the order dated 14.06.2021 passed in Restoration Case No. 10 of 2021, by the learned Court of Commissioner, Saran Division, Chapra, whereby and whereunder the restoration petition, filed by the petitioner, has been dismissed.

The learned counsel for the petitioner has submitted that the original appellant namely, Lilawati Devi was severely



ill, hence could not appear before the appellate authority resulting in dismissal of the aforesaid appeal on account of non-prosecution. It is also submitted that on account of her illness, the said Lilawati Devi passed away on 15.03.2020, whereafter the aforesaid proceedings are being prosecuted by her husband i.e. the petitioner herein.

This Court finds that the learned Court of Commissioner, Saran Division, Chapra has come to a conclusion, while considering the restoration petition, that there is no provision for restoration of an appeal in the Indian Stamp Act, 1899, hence has rejected the restoration petition filed by the petitioner herein. This Court further finds that the appeal filed by the wife of the petitioner was rejected on account of non-prosecution by the impugned order dated 04.05.2020, however, the averments made in the present petition as also the submissions advanced by the learned counsel for the petitioner would show that the wife of the petitioner i.e. the original appellant was severely ill and has also died on account of her illness, thus I find that justifiable reasons exist on account of which the aforesaid appeal could not be prosecuted diligently.

Having regard to the aforesaid facts and circumstances of the case, this Court is of the view that equities



demand that the aforesaid appeal should be heard on merits by the learned Court of Commissioner, Saran Division, Chapra and decided appropriately.

For the reasons mentioned herein above, I deem it fit and proper to quash the order dated 04.05.2020 passed by the learned Court of Commissioner, Saran Division, Chapra in Stamp Appeal Case No. 40 of 2017, whereby and whereunder the appeal has been dismissed on account of non-prosecution and direct the learned Commissioner, Saran Division, Chapra to hear the said appeal on merits and pass a reasoned and a speaking order, in accordance with law forthwith.

The writ petition stands allowed on the aforesaid terms.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

