

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.655 of 2022

Mithlesh Kumar Singh @ Mithilesh Kumar Singh S/o Late Sheo Lochan Singh Resident of Village- Sheikhpura, P.S.- Shastrinagar, District- Patna.

... .. Petitioner/s

Versus

1. Vidya Sagar Singh S/o Rabindra Prasad Singh Resident of Village- Sheikhpura, P.S.- Shastrinagar, District- Patna.
2. Rabindra Prasad Singh S/o- Mahendra Singh Resident of Village- Sheikhpura, P.S.- Shastrinagar, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Singh
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 17-11-2022 Heard Mr. Pramod Kumar Singh, learned counsel for the petitioner.

2. The petitioner is aggrieved by an order dated 30.01.2019 passed in Miscellaneous Case No. 29 of 2018 whereby Additional District & Sessions Judge VIII, Patna has restored the Title Appeal No. 18/1990/39/2015 to its original file/number.

3. Learned counsel for the petitioner submits that the appeal is of year 1990. During the pendency of the appeal the respondent did not take any action to pursue the same due to which the appeal was dismissed for default on 22.03.2017. As such, according to him the learned District Court has committed material irregularity by restoring the appeal to its original file.

4. I have heard learned counsel for the petitioner and



perused the materials on record. It is admitted position that the appeal was dismissed for default in the year 2017. The respondent/appellant filed the restoration petition *vide* Miscellaneous case No. 29 of 2018 along with condonation of delay petition. The learned District Court has come to the conclusion that due to death of the conducting lawyer, the steps could not be taken by the appellant in the appeal and after having knowledge about the dismissal of the appeal, the restoration petition has been filed. Accordingly, the delay in preferring restoration case was condoned by the District Court and the appeal has been admitted to its original file.

5. Taking into consideration the fact that the respondent/appellant has explained the delay in filing the restoration application and further in order to advance the cause of substantial justice, I do not find any reason to interfere with the impugned order. Accordingly, this petition is rejected.

(Anil Kumar Sinha, J)

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