

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.56 of 2015

In
FIRST APPEAL No.261 of 1982

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Jankuri Devi and Ors.

... .. Petitioner/s

Versus

Ramjhari Devi and Ors.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Radha Mohan Pathak
For the Opposite Party/s : Mr.Binod Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL ORDER

5 26-04-2022 Petitioners have presented this Miscellaneous Jurisdiction Case to recall the order dated 04.05.2011. In F.A. No. 261 of 1982, Jankuri Devi & Ors. Vs. Ramjhari Devi & Ors. was not prosecuted by the Advocate on record, in the result the appeal was dismissed for non-prosecution whereas the present petition is for restoration of F.A. No. 261 of 1982 and it was presented in the month of May, 2015. There is delay of nearly four years and few months. There is no Interlocutory Application for condonation of delay in respect of restoration of F.A. No. 261 of 1982. That apart, Advocate on record has not filed the application for restoration of F.A. No. 261 of 1982.

The reasons assigned by the petitioners at para 3 of the MJC petition reads as under:-

“That the humble petitioners



were completely unaware about the dismissal of case and under impression that their appeal might be running on list but when they enquired about the same with their counsel but they could not find their earlier counsel. The petitioners became puzzled and came to Patna on 26.09.2014. The petitioners did not find traces of the their earlier counsel Mr. Siya Saran.”

Aforesaid pleadings is not sufficient to contend that petitioners could not take no objection from the Advocate on record. For the reasons that the petitioners have not made any efforts to issuance of notice to the Advocate on record, Mr. Siya Saran so as to apprise the fact that Mr. Siya Saran is not available to the petitioners.

In the light of these facts and circumstances read with conduct of the petitioners in pursuing the matter, the present MJC petition stands dismissed.

(P. B. Bajanthri, J)

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