

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2819 of 2018

In
SECOND APPEAL No.469 of 1991

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1. Ganesh Prasad Tatma
2. Om Prakash Tatma
Both sons of Late Ram Prasad Tatma, resident of Mohalla- Tej Tola, P.S. and District- Katihar.

... .. Petitioner/s

Versus

1. Mostt. Anita Devi widow of Bishwanath Prasad
2. Kashi Nath Prasad
3. Jai Nath Prasad since deceased
4. Kamal Prasad
5. Banku Prasad
6. Gauttam Kumar since deceased 2 to 6 are sons of Late Bishwanath Prasad
7. Bipti Devi @ Amala Kumari D/o Late Bishwanath Prasad
8. Shiv Nandan Prasad
9. Lakhnan Prasad 8 and 9 are sons of Jittu Tatma All are resident of Mohalla- Tej Tola, P.O. and P.S.- Katihar, District- Katihar.
10. The State of Bihar through the Collector, Katihar.
11. The Circle Officer, Katihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhola Prasad, Advocate
For the Opposite Party/s : Mr. Majid Mahboob Khan, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 14-09-2023 Heard Mr. Bhola Prasad, learned counsel appearing on behalf of the petitioners and Mr. Majid Mahboob Khan, learned counsel for the State.

2. The petitioners press this application for restoration of Second Appeal No. 469 of 1991 which stood dismissed as incompetent by order dated 27.09.2016 passed by the learned



co-ordinate Bench of this Court for non-substitution of legal heirs of deceased respondent nos. 1, 3 and 6.

3. Learned counsel for the petitioners drawing the attention of this Court to the order dated 27.09.2016 submits that while passing the order of the dismissal of the appeal as incompetent, the learned Court has also observed that there is none to represent the appellants and, as such, the restoration of the appeal would be justified.

4. This Court is not persuaded to the submissions made on behalf of the petitioners as the appeal is dismissed, after having found it incompetent on account of the reasons mentioned in the order itself that respondent nos. 1, 3 and 6 in this appeal were plaintiff in the suit and they died on 22.03.2014, 11.10.2013 and in the year 1996 respectively, but no steps for substitution of legal heirs and legal representative have been taken so far by the appellants.

5. In view thereof, the present restoration application stands dismissed, having no merit.

(Harish Kumar, J)

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