

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.345 of 2023

In
SECOND APPEAL No.1 of 2021

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Shyam Bihari Singh Son of Late Ram Kewal Singh, Resident of Village-Tenduni, Police Station- Jagdishpur, District- Bhojpur. Pin Code- 802158 (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Collector, Bhojpur, Ara.
2. Laxman Singh Son of Vishwanath Singh, Resident of Village- Tenduni, Police Station- Jagdishpur, District- Bhojpur.
3. Rupjhariya Devi Wife of Late Vishwanath Singh, Resident of Village-Tenduni, Police Station-Jagdishpur, District-Bhojpur.
4. Tetari Devi Wife of Gugul Singh, Resident of Village-Nawdiha, Police Station-Dumraon, District-Buxar, at present resident of Village-Khapataha, Police Station-Jagdishpur, District-Bhojpur.
5. Chandrawati Devi Wife of Satyanarayan Singh, Resident of Village-Khapataha, Police Station-Jagdishpur, District-Bhojpur, at present Resident of Village-Tenduni, Police Station-Jagdishpur, District-Bhojpur.
6. Durgawati Devi Daughter of Late Ramnaresh Sigh, Wife of Hari Birun Singh, Resident of Village-Samhar, Police Station-Dumraon, District-Buxar, at present Resident of Village-Tenduni, Police Station-Jagdishpur, District-Bhojpur.
7. Sonapati Devi Daughter of Late Ram Naresh Singh, Wife of Ram Dular Singh, resident of Village-Nakhpur, Police Station-Nawanagar, District-Bhojpur at present Resident of Village-Tenduni, Police Station-Jagdishpur, District-Bhojpur.
8. Bhikhari Singh Wife of Shri Niwas Singh, resident of Village-Aathar, Police Station-Nawanagar, District-Buxar, at present Resident of Village-Tenduni, Police Station-Jagdishpur, District-Bhojpur.
9. Sunaina Devi Wife of Munna Singh, resident of Village-Reka, P.O. Aathar, Police Station-Sikraul, District-Buxar.
10. Jitendra Singh Son of Late Loknath Singh, resident of Village-Kulhwa, Police Station-Dumraon, District-Buxar.
11. Hiramuni Devi Daughter of Late Loknath Singh, Wife of Ramlal Singh, Resident of Village and P.O. Aathar, Police Station-Nawanagar, District-Buxar.
12. Shyam Sundari Devi Daughter of Late Loknath Singh, Wife of Suneshwar Singh, resident of Village-Pipara Ka Dera (Dhangai), Police Station-Dhangai, District-Bhojpur.

... .. Opposite Party/s

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Appearance :



For the Petitioner/s : Mr. Subhen Sarkar, Advocate
Mr. Abhishek, Advocate
For the Opposite Party/s : Mr. Uday Shankar Sharan Singh, (GP 19)
For the State : Mr. Swapnil Kumar Singh, AC to GP 19

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

6 26-07-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

2. This application has been filed for restoration of
Second Appeal No. 01 of 2021, which stood dismissed due to
non-prosecution on 18.10.2022.

3. It is submitted that learned counsel for the appellant
could not appear on the fixed dates due to his ill health and the
appellant had no knowledge about the same. Non-appearance on
behalf of the appellant was not *mala fide* and now he has made
an alternative arrangement by engaging new counsel and after
knowledge of dismissal of the case, he has filed this restoration
application. Petitioner has merit in the Second Appeal. Petition
is supported with the affidavit of the petitioner.

4. Learned counsel for the petitioner submits that the
appellant-petitioner will suffer irreparable loss if the said appeal
is not restored to its original file.

5. Learned counsel for the State has no serious
objection on this petition.

6. In view of the submission of the learned counsel for



the parties and considering the averments made in the this application, the instant application is allowed and the Second Appeal No. 01 of 2021 is restored to its original file.

7. This Application is, accordingly, disposed of.

(Sunil Dutta Mishra, J)

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