

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1539 of 2023

In
Letters Patent Appeal No.1347 of 2015

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1. The State of Bihar through the Commissioner-cum-Secretary, Water Resources Department, Patna.
 2. The Commissioner-cum-Secretary, Minor Irrigation Department, Government of Bihar, Patna.
 3. The Deputy Secretary to the Government, Minor Irrigation Department, Government of Bihar, Patna.
 4. The Joint Secretary to the Government, Minor Irrigation Department, Government of Bihar, Patna.

... .. Petitioner/s

Versus

Baikunth Sharma Son of Late Ramashish Singh, Resident of Village- Jalalpur,
P.O.- Utarsherthu, P.S.- Ghosi, District- Jehanabad.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Sinha, AC To GA- 9
For the Opposite Party/s : Mr. Ajit Kumar, GA- 9

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

2 11-10-2023 The present MJC No. 1539 of 2023 is filed for recalling order dated 19.04.2023. This Court has recorded appearance of *Mr. Abhinay Raj*, Advocate for the appellant-State of Bihar.

2. Learned counsel Mr. Ajit Kumar, GA-09 submitted that wrongly the name of *Mr. Abhinay Raj* was noted down while passing the order on 19.04.2023. On the other hand, *Mr. Ajit Kumar* had appeared on that date. In that event, there should



have been application for rectification of the order dated 19.04.2023 to replace the name of *Mr. Abhinay Raj* to that of *Mr. Ajit Kumar*. Such application is not forthcoming, therefore, whatever the submission is made today on behalf of the *Mr. Ajit Kumar* is only an afterthought and the same cannot be taken note of.

On 19.04.2023 the following order was passed:-

“Learned counsel for the appellant is not prepared to address the argument. Despite, requesting to the learned counsel for the appellant to address the argument at one point of time, he says that he is prepared to argue the matter and when once the matter is taken up for hearing again he is reiterating in seeking time.

On 12.04.2023, the following order was passed:-

“On 04.04.2023, none appears for the appellant.

In fact, this present L.P.A. was remanded by the Apex Court in Civil Appeal No. 6866 of 2021 arising out of SLP (C) No. 25259 of 2017 (The State of Bihar & Ors. Vs. Baikunth Sharma) and it was decided on 15.11.2021 while making an observation that learned counsel for the respondent is permitted to make a request to this Court for an earlier disposal considering the age of the matter from the original cause of action.

Therefore, in order to give one opportunity, re-list this matter on 19.04.2023. If, there is no representation on behalf of the appellant on the next date of hearing, present L.P.A. would be dismissed for non-prosecution.

Therefore, L.P.A. stands dismissed for non-prosecution”.

3. Having regard to the factual aspects recorded on



19.04.2023, it is not a fit case for restoration of the LPA No. 1347 of 2015 in recalling the order dated 19.04.2023.

4. Accordingly, the present MJC No. 1539 of 2023 stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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