

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.2403 of 2022**

**In**  
**FIRST APPEAL No.158 of 2006**

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1. Kameshwar Chaudhary Son of Late Raghubir Chaudhary, Resident of Village- Chaturbhuj, Baraon, P.O.- Jitaura, P.S.- Piro, District- Bhojpur.
  2. Mahendra Chaudhary Son of Late Raghubir Chaudhary, Resident of Village- Chaturbhuj, Baraon, P.O.- Jitaura, P.S.- Piro, District- Bhojpur.
  3. Most Shanti Kuer Wife of Late Sita Ram Chaudhary , Resident of Village- Khairahi Bahuara, P.S.- Dawath, District- Rohtas.

... .. Petitioner/s

Versus

1. Baij Nath Chaudhary son of Late Kishun Chand Chaudhary, Resident of Village- Khairai, P.O.- Bahuara, P.S.- Dawath, District- Rohtas.
2. Brajesh Kumar Chaudhary Son of Baij Nath Chaudhary, Resident of Village- Khairai, P.O.- Bahuara, P.S.- Dawath, District- Rohtas.
3. Manu Bhushan Chaudhary Son of Baij Nath Chaudhary, (At the timing of filing of this First Appeal he was a minor under the guardianship of his father Baij Nath Chaudhary), Resident of Village- Khairai, P.O.- Bahuara, P.S.- Dawath, District- Rohtas.
4. Surendra Chaudhary @ Ganesh Chaudhary Male (Deceased) Respondent No. 4 and 5 have been died and Respondent No. 3 is became major now and for which already been substitution petition filed.
5. Vijay Chaudhary (Deceased) Son of Late Haribansh Chaudhary, Resident of Village- Khairai, P.O.- Bahuara, P.S.- Dawath, District- Rohtas.
6. Ashok Chaudhary son of Late Haribansh Chaudhary, Resident of Village- Khairai, P.O.- Bahuara, P.S.- Dawath, District- Rohtas.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Bhim Sen Prasad, Advocate  
For the Opposite Party/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**ORAL ORDER**

- 3      16-08-2023      1.              Though the present petition has been filed for restoration of an appeal bearing First Appeal No. 158 of 2006, which has stood dismissed for default by an order dated 10.04.2018 on account of the fact



that the defects pointed out by the Stamp Reporter on 12.10.2006 was shockingly not removed by the appellants for a period of about 12 years, despite repeated opportunities being granted by the Court.

2. Again the present restoration petition has been filed belatedly, which is also marred by the vice of gross delay and laches inasmuch as the same has been filed after a lapse of more than four years.

3. Having regard to the aforesaid conduct of the Appellants as also their counsels, this Court is not inclined to condone the brazen act of the petitioners, nonetheless, the learned counsel for the petitioners has made a request to the effect that the petitioners be granted liberty to avail such other remedy, i.e. other than the one already availed of, as are otherwise available to the petitioners. Liberty, so sought, is granted.

4. Accordingly, the present petition stands dismissed as not pressed.

**(Mohit Kumar Shah, J)**

S.Sb/-

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