

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1292 of 2018

Braj Kishore Sharma Son of late Sarju Sharma, Resident of Village- Jalpura,
P.S. Haspura, District- Aurangabad.

... .. Petitioner/s

Versus

1. Jhalak Yadav @ Jhalakdeo Yadav and Ors Son of Indradeo Yadav, Resident of Village- Makbullpur, P.O. and P.O. Haspura, District- Aurangabad.
3. Awadh kIshore Sharma, Son of late Sarju Sharma, Resident of Village- Jalpura, P.S. Haspura, District- Aurangabad.
4. Suraj Mani Devi, Daughter of late Sarju Sharma, Wife of Venktesh Sharma, Resident of Village- Itwan, P.O. Jhinguri, P.S. Pauthu, District- Aurangabad.
5. Gayatri Devi, Daughter of late Sarju Sharma, Wife of Ram Binay Singh, Resident of Village Kanap, P.S. Daudnagar, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Jitendra Prasad Singh, Sr. Adv. Mr. Abhishek, Adv. Ms. Sripriya Sinha, Adv.
For the Respondent/s	:	Mr.Anirudh Kumar Verma, Adv. Mr. Vyas Kumar Verma, Adv.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

9 27-06-2025 Learned senior counsel for the petitioner submits that in terms of order dated 12.03.2020 passed in Misc. Case No. 03 of 2018, cost of Rs.3000/- was to be deposited by the respondent for revival of Title Appeal No. 17 of 2011/ 67 of 2014. Subsequently on application of the petitioner, vide order dated 12.07.2024 passed in Misc. Case No. 03 of 2018, it has been made clear by the learned Appellate Court that as the cost was not deposited, the Misc. Case No. 03 of 2018 got automatically dismissed. Thereafter the cost was deposited on 24.03.2025 after record was surreptitiously put up on 22.08.2024. Further, the learned District Judge-Vth, Aurangabad



committed an error of record as he mentioned in order dated 22.08.2024 the opposite party/petitioner herein filed his *Haziri* and directed the appellant/respondent to deposit the cost to comply the order dated 12.03.2020. There was no question of opposite party/petitioner filing his *Haziri* as whole proceeding took place behind the back of the opposite party/petitioner. Learned District Judge exceeded his jurisdiction and was not competent to pass such order. Therefore, deposit of cost on 24.03.2025 by the appellant/respondent is completely dubious transaction after orders have been passed on 12.07.2024. Learned counsel further submits that he has already filed an application dated 28.04.2025 before the learned District Judge 5th Aurangabad raising all these points. Learned senior counsel further submits that, in any case, Title Appeal No. 17 of 2011/67 of 2014 has been restored since cost has been deposited pursuant to the order dated 12.03.2020 passed in Misc. Case No. 03 of 2018.

2. Learned senior counsel finally submits that the instant petition has become infructuous as the appeal has been restored and nothing remains for adjudication in the present civil miscellaneous petition and seeks permission to withdraw the same with liberty to raise all issues before the appellate court.

3. Permission is accorded.

4. Accordingly, the present petition is dismissed as withdrawn with liberty to the petitioner to raise all the issues



concerning the present matter before the learned appellate court in
accordance with law.

(Arun Kumar Jha, J)

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