

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.49 of 2022

In
Miscellaneous Jurisdiction Case No.1278 of 2017

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Sher Mohammad Khan Son of Late Suleman Khan Resident of Village and
P.O. Bhagalpur, P.S.-Piro, District-Bhojpur.

... .. Petitioner/s

Versus

2. Nizat Ahmad Khan Son of Late Haji Noor Mohammad Khan Resident of Village-Bhagalpur, P.O. and P.S. Piro, District-Bhojpur.
3. Chanda bano Wife of Sarfuddin Khan Resident of Village-Bhagalpur, P.O. and P.S. Piro, District-Bhojpur.
4. Rasda Khatoon Wife of Jaeab Khan Resident of Village-Bhagalpur, P.O. and P.S. Piro, District-Bhojpur.
5. Sahida Khatoon Daughter of Late Haji Noor Mohammad Khan, Resident of Village-Bhagalpur, P.O. and P.S. Piro, District-Bhojpur.
6. Sama Bano Daughter of Late Haji Noor Mohammad Khan Resident of Village-Bhagalpur, P.O. and P.S. Piro, District-Bhojpur.
7. Julekha Khatoon Wife of Safir Khan and Daughter of Late Suleman Khan Resident of Village-Bhagalpur, P.S. Piro, District-Bhojpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 03-07-2025 Heard the parties.

2. The present petition has been preferred for the
grant of following relief(s):

*“for review of the order dated 09.12.2021
passed by the Bench of Hon'ble the Chief
Justice in Miscellaneous Judicial Case No.*



1278 of 2017, whereby and whereunder the said case filed for restoration of Second Appeal No. 268 of 2010, has been dismissed.”

3. The Court on 09.02.2021 took note of the fact that Second Appeal No. 268 of 2010 (Sher Mohammad Khan vs. Anish Khatoon and Ors.) despite being filed in the year 2010, remained defective for one and half year inasmuch as the defect pointed out by the Registry from time to time was never cured. The matter was later dismissed pursuant to the peremptory dated 10.07.2014.

4. Three years later, MJC No. 1278 of 2017 was filed. The Court took up the matter and vide an order dated 09.12.2021 having taken note of the fact that the different paragraphs of the petition does not explain the reasons for removal of the defect as also the delay in filing the application, in that background, after observing that the litigant is not an illiterate/rustic person, the restoration petition was dismissed.

5. This Court is in complete agreement with the order in question. The aforesaid development clearly show that the petitioner only wanted to linger the matter. An appeal was preferred in the year 2010, it remained defective for one and half year, was dismissed in the year 2014, he took another three



years to file restoration petition without any averment in it to show his bonafide.

6. In that background, Civil Review stands dismissed.

(Rajiv Roy, J)

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