

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.987 of 2023

In

SECOND APPEAL No.356 of 2008

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Binod Kumar Son of Kameshwar lal Sahu Resident of Mohalla- Madanpur,
P.S. and Town -Laheria sarai, Dist- Darbhanga.

... .. Petitioner/s

Versus

Bharat Sah @ Bharat Prasad Sah Son of Sri Bhuneshwar lal sahu, Resident of
Mohalla- Madanpur, P.S. and Town- Laheria Sarai, Dist- Darbhanga.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nishant Kumar Sinha, Adv.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

3 28-07-2025 Heard the parties.

2. The present application has been filed for restoration of SECOND APPEAL No.356 of 2008 to its original file, which stood dismissed on 19.09.2019 due to non compliance of peremptory order dated 16.08.2019.

3. Learned counsel for the petitioner submits that *vide* order dated 05.12.2012, the appeal was admitted, substantial question of law was framed and the notice was issued to sole respondent requiring the appellant to file necessary requisites within 19th of December, 2012, the order was peremptory in nature.

4. However, by order dated 16.08.2019, notice was issued through Speed post with A/D for which four weeks



peremptory time was granted. This time, the appellant could not file the necessary requisites within time for the reason that though learned counsel for the appellant promptly informed and instructed his clerk to comply the same within the peremptory time but the clerk did not comply with the order and also did not inform the client regarding the peremptory order dated 16.08.2019.

5. When the matter again was listed on 25.10.2019 and stood dismissed on account of non compliance of peremptory order dated 16.08.2019, then only, learned counsel for the appellant came to know that the order dated 16.08.2019 was not complied with, due to which, the Second Appeal stood dismissed on 13.09.2019. Subsequently, COVID-19 intervened. However, necessary requisites for notice has been filed on 29.02.2024.

6. Considering the submissions made by the learned counsel for the appellant and the reasons stated in the present petition, the same is allowed and the connected case bearing SECOND APPEAL No. 356 of 2008 is restored to its original file.

7. The office is directed to take steps for issuance of



notice to the sole respondent for which necessary requisites has
already been filed by the appellant on 29.02.2024.

(Anil Kumar Sinha, J)

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