

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.664 of 2025**

**In**  
**FIRST APPEAL No.72 of 2018**

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Manoj Prasad Son of Sri Shiv Sharan Ram, R/o Village- Babhnauli, Dr. Kashila, P.O.- Ander, P.S.- Asawn, District- Siwan.

... .. Petitioner/s

Versus

Shrinivash Ojha Son of Late Ramashnkar Ojha, R/o Village- Dehura, Dr. Ander, P.S. and Post Asawn, District- Siwan.

... .. Opposite Party/s

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**Appearance :**

|                          |   |                                        |
|--------------------------|---|----------------------------------------|
| For the Petitioner/s     | : | Mr. Anil Kumar Sinha, Advocate         |
|                          |   | Mr. Ajay Kumar Tiwary, Advocate        |
| For the Opposite Party/s | : | Mr. Mithilesh Kumar Upadhyay, Advocate |
|                          |   | Ms. Tetara Kumari, Advocate            |
|                          |   | Mr. Raju Prasad, Advocate              |

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**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL ORDER**

4      16-01-2026                      Heard learned counsel for the petitioner and learned counsel for the respondent.

2. The instant application has been filed praying for restoration of First Appeal no. 72 of 2018 which stood dismissed for default on 8.8.2022 for non-compliance of the peremptory order dated 27.6.2022.

3. It is submitted by learned counsel appearing for the petitioner that by order dated 27.6.2022, six weeks time was granted to the appellant to remove the defects pointed out in the stamp report, failing which it was directed that the appeal shall stand dismissed without further reference to the Bench. It is



submitted that there were error on part of learned counsel for the appellant in calculating the date within which the defect had to be removed.

4. Further referring to the Annexure-P/2 to the restoration application, learned counsel submits that though the E-Court fee amount of Rs. 22,880/- was obtained by the appellant on 8.8.2022 itself, as a result of the inadvertent error in the calculation, the same was not filed. In fact the same should have been filed as per the Office on 7.8.2022.

5. The application is opposed by learned counsel appearing for the respondent. It is submitted that besides the peremptory order of this Court not having been complied with, there is no explanation whatsoever for the delay in filing of the instant restoration application. It is further submitted that the restoration application being devoid of any explanation, the same be dismissed.

6. Having heard learned counsel for the parties and having perused the contents of the record, it transpires that by order dated 27.6.2022, the appellant was granted six weeks time to remove the defects pointed out in the stamp report dated 11.7.2018. Thus the defects had to be removed on or before 7.8.2022. The same not having been removed, the appeal stood



dismissed for default on 8.8.2022.

7. On further perusal of the restoration application, it transpires that for removal of the defects with respect to non-payment of the Court fee, the appellant purchased E-Court fee amount of Rs. 22,880/- on 8.8.2022. The Court fee amount having been purchased on 8.8.2022, just a day after the peremptory time for removal of the defects expired, the Court is convinced that the petitioner has made out a case for restoration of the appeal.

8. The restoration application is allowed.

9. First Appeal no. 72 of 2018 is restored to its original file.

**(Partha Sarthy, J)**

saauravkrsinha/-

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