

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.9 of 2018

In
FIRST APPEAL No.232 of 2004

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1. Brij Behari Sah
 2. Bindeshwar Sah both sons of late Manjhi Sah resident of village Gangti, P.S. Pupri, P.O. Gangti, District Sitamarhi.

... .. Petitioner/s

Versus

1. Sri Govind Sah son of Late Manjhi Sah
.....Plaintiff-- Respondent 1st party
2. Mostt. Sarita Devi @ Dipa Devi wife of Late Rameshwar Sah
3. Mohan Kumar
4. Amar Nath Kumar
5. Dharendra Kumar @ Pappu all sons of late Rameshwar Sah
6. Nunu Kumar
7. Bhullu Kumar
8. Nitu Kumari Minor sons and daughter of Late Rameshwar Sah through natural guardianship of Sarita Devi
9. Srimati Kiran Devi wife of Shushil Kumar
10. Srimati Chandni Devi wife of Swarath Prasad Sah
11. Srimati Punam Devi daughter of Late Rameshwar Sah, wife of Ranjit Kumar. Respondent no. 3 to 11 are the sons and daughter of late Rameshwar Sah .All the respondents are the residents of village Gangti, P.O. Gangti, P.S. Pupri, District Sitamarhi, via Janakpur Road.

... ..Defendants- respondents 2nd set.

12. Anandi Devi wife of Late Manjhi Sah resident of Village and P.O. Gangti, P.S. Pupri Via Janakpur Road, District Sitamarhi.
13. Gayatri Devi wife of Jagarnath Sah Tuffani resident of village Mane Chauk, P.S. Runni Saidpur, P.O. Manuchauk, District Sitamarhi.
14. Geeta Devi wife of Rama Sah resident of village Laxmipur, P.S. Nanpur, P.O. Bhadayan, District - Sitamarhi.
15. Sita Devi wife of Shiv Shankar Prasad resident of Village - Bhutahi, P.S. - Sonbarsa, P.O. Bhutani, District - Sitamarhi.
16. Sunita Devi wife of Hari Kishore Choudhary resident of village Bishanpur, P.S. Sonbarsa, P.O. Bhutahi, District Sitamarhi.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Smt. Anuradha Singh, Advocate
For the Opposite Party/s :



CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

6 13-02-2026 In compliance of the order dated 19.01.2026 passed by this Court an affidavit of jointness has been filed stating that Opposite Party No. 1 resides with his son, namely Prabhakar Kumar in a joint house and have no adverse interest against each other. It is submitted that the notice issued to Opposite Party No. 1 has been received by his son.

2. In view of the aforesaid facts, the service of notice upon Opposite Party No. 1 is deemed to have been validly served.

Re. I.A. No. 5835 of 2018

3. The present interlocutory application has been filed under Section 5 of the Limitation Act for condoning the delay in filing the restoration application in F.A. No. 232 of 2004.

4. Earlier, notices were issued to the opposite parties which was validly served, but no counter affidavit has been filed.

5. Having regard to the aforesaid facts and the averments made in the application as well as the explanation given in the interlocutory application, the same is allowed.

6. Delay in filing the restoration petition in F.A. No.



232 of 2004 is allowed.

Re: MJC No. 09 of 2018

7. The present application under Section 151 of the CPC has been filed for restoration of First Appeal No. 232 of 2004 which stood dismissed for default on 24.8.2017 by a Co-ordinate Bench of this Court to its original file and number.

8. Having regard to the facts and circumstances of the case and the averments made in the application as well as the explanation given in the application, the same is allowed.

9. Accordingly, First Appeal No. 232 of 2004 is restored to its original file and number, subject to the compliance of the order dated 24.7.2017 within a period of two weeks from today.

(Khatim Reza, J)

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