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Malti Devi Vs. Shanti Devi and ors.

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Court : Jharkhand

Decided On : Feb-22-2005

Reported in : AIR2005Jhar103

Judge : Narendra Nath Tiwari, J.

Appeal No. : C.R. No. 60 of 2004

Appellant : Malti Devi

Respondent : Shanti Devi and ors.

Advocate for Def. : R.R. Tiwari, Adv.

Advocate for Pet/Ap. : Amar Kumar Sinha, Adv.

Disposition : Application allowed

Judgement :
ORDER

Narendra Nath Tiwari, J.

1. This civil revision application is against the order dated 12-2-2004 passed by the Additional Judicial Commissioner, Ranchi in Misc. Case No. 2 of 2002 whereby the Court below has allowed the said miscellaneous case and restored the Title Appeal No. 30 of 1993 to its original file. Notice was issued to the

opposite parties. Mr. R. R. Tiwari appeared on behalf of the opposite parties.

2. Heard both the parties.

3. From perusal of the order dated 12-2-2004, it is evident that the appellant was not present on the day, the impugned Order was passed. Only the respondents were present. They had objected to the petition filed by the appellant in the said Misc. Case No. 2 of 2002. In spite of the same the learned Court below took up the matter and even without hearing the parties, passed the impugned order allowing the miscellaneous case filed by the appellants in the Lower Appellate Court.

4. Although the Court has discretion to allow the application for restoration in a case in which sufficient causes are explained, yet the way it has been done in the instant case is not permissible in law. The Court below has not discussed the evidence or the affidavit on the basis of which the impugned order has been passed. The order is not supported by any speaking reason and the same is cryptic and mechanical. In that view the impugned order dated 12-2-2004 cannot sustain in law and the same is hereby set aside. The case is remitted back to the learned Court below for disposing of the said Misc. Case No. 2 of 2002 by speaking order and in accordance with law.

5. This civil revision application is, thus, allowed with the aforesaid observations.

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