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Santosh Kumar Pandey, D&ASJ-II, Darbhanga
Misc. Civil Appeal No. 33/2011
CIS (Registration) No. 88/2014
Date of Order – 01.06.2026

IN THE COURT OF DISTRICT JUDGE-II, DARBHANGA

Misc. Civil Appeal No. 33/2011
CIS (Registration) No. 88/2014

ORDER
01.06.2026

1. The present Miscellaneous Civil Appeal was instituted on 21.10.2011 and was admitted for hearing on 29.11.2011. The matter is listed today for hearing. On repeated calls, neither the appellant nor the respondent(s) appeared before the Court, either personally or through their learned counsel.
2. A perusal of the order-sheet reveals that the parties have continuously remained absent on a large number of consecutive dates, namely
21.06.2025, 19.07.2025, 09.09.2025, 10.11.2025, 23.12.2025,
24.02.2026, 22.04.2026, 23.04.2026, 24.04.2026, 27.04.2026,
28.04.2026, 29.04.2026, 30.04.2026, 02.05.2026, 04.05.2026,
05.05.2026, 06.05.2026, 07.05.2026, 08.05.2026, 11.05.2026,
12.05.2026, 13.05.2026, 14.05.2026, 15.05.2026, 16.05.2026,
18.05.2026, 19.05.2026, 20.05.2026, 21.05.2026, 22.05.2026,
23.05.2026, 25.05.2026, 26.05.2026, 27.05.2026, 29.05.2026 and even today. Such prolonged and continuous absence clearly demonstrates a complete lack of interest on the part of the litigants in prosecuting or contesting the present appeal.
3. It is pertinent to note that the present appeal is one of the oldest pending matters before this Court. In compliance with the directions of the Hon'ble High Court communicated vide Letter No. 97701-97737/File No. XI-18-2025/M.Cell-II dated 01.12.2025, all Presiding Officers of the District Judiciary were directed to identify the oldest pending civil and criminal cases and to undertake their expeditious disposal by listing them on a day-to-day basis. Pursuant thereto, the present appeal was

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identified as one of the oldest pending matters and has been repeatedly listed for hearing on a day-to-day basis since 27.04.2026.

4. Despite the Court extending adequate opportunities and repeatedly listing the matter for effective hearing, neither party has chosen to appear. The conduct of the parties leaves no room for doubt that they are no longer interested in pursuing the appeal. The judicial process cannot be permitted to remain indefinitely stalled on account of the indifference or inaction of litigants. Courts are burdened with a large volume of pending cases, and judicial time is a valuable public resource which must be utilized for adjudication of disputes where parties are genuinely interested in obtaining judicial determination of their rights.
5. It is a settled principle of law that a litigant who invokes the jurisdiction of the Court is under a corresponding obligation to diligently prosecute the proceedings. Persistent non-appearance and failure to take necessary steps for prosecution of the case amount to abandonment of the remedy sought. The Court cannot compel an unwilling litigant to pursue his own appeal, nor can a proceeding be kept pending endlessly merely because it was once instituted.
6. Order XLI Rule 17 of the Code of Civil Procedure, 1908 empowers the Appellate Court to dismiss an appeal where the appellant fails to appear when the appeal is called on for hearing. The said provision is intended to prevent abuse of process and to ensure that judicial proceedings are prosecuted with due diligence. In the facts and circumstances of the present case, where the appellant has remained absent for a prolonged period despite repeated opportunities and day-to-day listing, this Court finds no justification for granting any further adjournment.
7. Having regard to the continuous absence of the parties, the prolonged pendency of the matter, the repeated opportunities already afforded by the Court, and the mandate of expeditious disposal of old cases, this

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Court is satisfied that the appeal is liable to be dismissed for non-prosecution and default.

8. Accordingly, the present **Miscellaneous Civil Appeal No. 33 of 2011** stands **dismissed for default and non-prosecution**.
9. Let the record be consigned to the Record Room after due compliance and in accordance with law.

(Santosh Kumar Pandey)
District Judge-II
Darbhanga
01.06.2026

Date of Judgement/order	01.06.2026
Date of reserving judgement/Order	01.06.2026
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