

COURT OF CIVIL JUDGE(J.D.), BENIPUR, DARBHANGA
Misc. 01/2025, R- 13/2025

Soman Mahato V/s Chandeshwar Mahato & others.

18.03.2026

Attendance filed on behalf of applicant. Plaintiff/ petitioner have brought this misc. case under section 151 CPC. vide petition dated 29.01.2025. Heard the Ld. Advocates for the applicant.

Persued the record and the evidence adduced during the proceedings. The plaintiff has given this application for restoration of Miscellaneous case No.01/2025 on the ground that on the date of hearing, he could not remain present because of her serious illness. The applicant Soman Mahato was under going treatment and due to this he was unable to conduct the affairs of this case properly. The petitioners have produced three witnesses namely PW-1 Soman Mahato, PW-2 Sudhir Sargam in the present case. These witnesses have stated medical illness as the major cause for not conducting the pairvi properly in this case.

Heard the applicant and perused the record.

In the case of **Dulal Chandra Ojha Vs. Bonomati Guchait and ors.** reported in AIR 1989 Cal. 91. the Honourable High Court relying on a judgement reported in AIR 1987 SC 1353, has held that in the restoration application, the only point to be considered whether there is sufficient cause for the absence of the plaintiff on the date of dismissal of the suit. While determining this question the Court should adopt liberal approach. Further, in the case of **Navnitlal L. Khakhar V/s. Hashmukhal G. Solanki** reported in AIR 1988 Guj. 34, the Hon'ble High Court has held that illness of a party should normally be treated as sufficient ground for non-appearance.

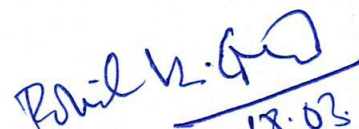
Looking into the evidences on record and in view of the above mentioned decisions, it appears that there is sufficient ground to restore the present suit. Hence, in the interest of justice, I pass the following order.

ORDER

This application is **allowed**.

Order for dismissal of suit dated 29.01.2025 is set aside and it is hereby ordered under section 151 of CPC to restore Misc. case no. 01/2025 to its original file and no. for further hearing.

The plaintiff shall pay **Rs. 2500/- to the Nazareth** as cost for the default made by the applicant.


18.03.26
Rohit Kumar Gupta

Civil Judge(J.D.), Benipur,

Darbhanga

Dated: 18.03.2026