

IN THE HIGH COURT OF JHARKHAND AT RANCHI
(Civil Miscellaneous Appellate Jurisdiction)
M. A. No. 59 of 2017

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Manoj Kumar @ Manoj Kumar Sharma & Others Appellants
Versus
Surya Bhan Sharma & Others. Respondents

CORAM: HON'BLE MR. JUSTICE KAILASH PRASAD DEO

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For the Appellants :Mr. Anil Kumar, Sr. Advocate
:Mr. Mrinal Kanti Roy, Advocate
For the Respondents :Mr. Gautam Kumar, Advocate.
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11/16.12.2019. Heard, learned Senior counsel for the appellants, Mr. Anil Kumar assisted by Mr. Mrinal Kanti Roy, Advocate.

Learned counsel, Mr. Gautam Kumar has submitted that the arguing counsel, Mr. Sanjay Kumar Tiwary is not present in the Court because of ailment of his father.

Learned Senior counsel for the appellants, Mr. Anil Kumar has submitted that this Court vide order dated 20.09.2019 has adjourned this case on the joint prayer of learned counsels for the parties and there is an interim protection granted in favour of the appellants vide order dated 02.02.2017.

Learned Senior counsel for the appellants has further submitted that all the Lower Court Records in original of Revocation Application filed by the respondents, which was dismissed for default and subsequent Revocation case vide M.J.C. No. 154 of 2002 are relevant for proper adjudication of this case as the question of limitation is the moot question involve in this appeal.

Learned Senior counsel for the appellants has relied upon a judgment in the case of ***Ramesh Nivrutti Bhagwat Vs. Dr. Surendra Manohar Parakhe***, which has been passed by Apex Court relying upon ***Lynette Fernandes V. Gertie Mathias (2018) 1 SCC 271***, where the Apex Court has held the letters of administration were granted in that case on 25.11.1994, which was withdrawn on 01.04.1998. The petition for revocation of letters of administration were filed on 29.07.1999 and proceeding were clearly time barred, given that the original grant of the ancillary letters took place on 25.11.1994; they constituted notice to all concerned. Clearly, the petition for revocation of letters of administration was time barred. It is accordingly held that there is no infirmity in the concurrent findings (Paragraphs 16 and 17 are relied upon).

Under the aforesaid circumstances, let the Lower Court Records be called for.

Put up this case after receipt of the Lower Court Records.

Till then, interim protection granted to the appellants vide order dated 02.02.2017 shall continue.

(Kailash Prasad Deo, J.)

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