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12/9/13

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**(Miscellaneous Judicial Jurisdiction)**

**M.J.C.No...../2013**

Brambhadeo Choudhary .....Petitioner.

Versus

The State of Bihar & Or's ..... Respondents

Subject- Restoration

**I N D E X**

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**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**(Miscellaneous Judicial Jurisdiction)**

**M.J.C.No...../2013**

(Arising out of C.W.J.C. No. 14939/ 2008)

In the matter of an application  
under Article 226 of the  
Constitution of India

And

In the matter of :-

Brambhadeo Choudhary, S/O- Mishri Choudhari, resident of village-  
Basudeopur, P.O.- Purshandi, P.S.- Alamnagar, Distt.- Madhepura

.....Petitioner.

Versus

1. The State of Bihar.
2. The Collector cum Settlement Officer, Saharsa,
3. The Assistant Settlement Officer, Saharsa,
4. The Assistant Settlement Officer, Madhepura

5. The Revenue Officer, Saharsa
6. Bal Krishna Roy, S/O- Pran Mohan Roy
7. Janki Raman Roy, S/O- Late Balmukund Roy.
8. Subhash Roy, S/O- Late Balmukund Roy.
9. Neeraj Roy, S/O- Late Balmukund Roy.
10. Jay Prakash Roy, S/O- Late Birendra Roy.
11. Arun Kumar Roy, S/O- Late Birendra Roy.

All resident of village- Basudeopur, P.O.- Purshandi, P.S.- Alamnagar,  
Distt.- Madhepura .

.....Respondents

To,

The Hon'ble Ms. Justice Rekha M. Doshit, the Chief Justice of  
the High Court of Judicature at patna and his companion Justices of the  
said Hon'ble Court.

The humble restoration petition  
on behalf of the petitioner above  
named.

**Most Respectfully Sheweth :-**

1. That this is an application on behalf of the petitioner for  
restoration of the C.W.J.C. No. 14939/ 2008 which has been  
dismissed for default vide order dated 10.5.2013 passed by the  
Hon'ble Mr. justice Rakesh Kumar .

2. That the petitioner has not earlier filed any restoration application before this Hon'ble court in the instant case.
3. That it is humbly submitted that the writ petition bearing C.W.J.C. No. 14939/ 2008 filed by the petitioner was listed on 10.5.2013 under heading for admission.
4. That the Aunti (Bari Maa) of the counsel for the petitioner died on 5.5.13 and he was busy in her shradh karm, due to which he could not marked the list as well as he could not appear before the Hon'ble court, due to which the said writ petition has been dismissed for non-prosecution by the Hon'ble Mr. Justice Rakesh Kumar vide order dated 10.5.13 and the clerk of the counsel also could not marked the list, there fore prayer for time was not made on his behalf.
5. That again on 6.7.2013 member of MALE, murdered the three persons in the district of Siwan including the nephew of the counsel for the petitioner namely Raju @.Raj Narayan Singh. There fore counsel for the petitioner and his family members were disturb .
6. That On 8.9.2013 petitioner approached the counsel, then he verified about the status of the case and came to know that vide order dated 10.5.13 case has been dismissed for default, there after taken steps to file this restoration petition.

7. That there are no latches on the part of the petitioner due to non appearance of the counsel this case had been dismissed for default therefore the writ petition bearing C.W.J.C. No. 14939/2008 filed on behalf of the petitioner may be restored to its original file.

It is therefore, prayed that your lordships may graciously be pleased to restore the C.W.J.C. No. 14939/ 2008 to its original file and recall the order dated 10.5.2013 passed by the Hon'ble Mr. Justice Rakesh Kumar and be pleased to allow this restoration petition .

And/Or

Pass such other order/orders as your lordships may deem fit and proper.

And for this, the petitioner shall ever pray.

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## Affidavit

I, <sup>Gaurav</sup>~~Gaurav~~ Kumar, aged about 28 years, S/O Vijay Kumar, resident of mohalla- Gardanibagh, P.S. - Gardanibagh, Dist.- Patna do hereby solemnly affirm and state as follows :-

1. That I am advocate clerk of Mr. Prabhakar Singh counsel of the petitioner and as such I am well acquainted with the facts and circumstances of the case.
2. That the contents of this application has been read over by me and I have understood the same. The contents of this petition are true to my knowledge.
3. That the annexure is true photo/typed copies of its respective originals.