
(2008) 07 PAT CK 0088
In the Patna High Court
Case No : LPA No. 1168 of 2000

Sheo Shankar Roy

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 31-07-2008

Acts Referred:

Citation : (2008) 4 PLJR 51

Hon'ble Judges : C.M. Prasad, J; Barin Ghosh, J

Bench : Division Bench

Advocate : Bhubneshwar Prasad and Arbind Kr. Verma, for the Appellant; Shashi Bhushan Kumar for the State, for the Respondent

Final Decision : Allowed

Judgement

Barin Ghosh & C.M. Prasad, JJ.—The learned Judge by the judgment and order under appeal has given just and correct reasons for not allowing the restoration petition and there is hardly any scope of interference but, however, having regard to the fact that in view of the system prevailing at present a litigant is dependent upon the efficiency as well as alertness of his chosen lawyer and the judgment and order under appeal would depict that it was the fault on the part of the lawyer chosen by the writ petitioner-appellant resulted in dismissal of the writ petition and as a consequence thereof the door of writ Court has been closed for the litigant to have fruits on merits as regards the challenge thrown by him in the writ petition. The learned Judge, while passing the order under appeal, was of the view that by obtaining an. interim order in 1984 and thereupon by ensuring that the writ petition is not heard and decided on merits, the petitioner-appellant was seeking to take advantage of the said interim order. We feel that, in such circumstances, while allowing the application for restoration, the learned Judge should have put to an end the interim order given in 1984 in order to pave the way for an early decision in the lis.

2. We, accordingly, allow the appeal, set aside the judgment and order under appeal and allow MJC No. 3413 of 1997 and restore the writ petition to its

original file, but at the same time vacate the interim order passed in the writ petition on 6.4.1984. We have restrained ourselves from imposing cost inasmuch as the reason for the default, as furnished, is a mistake on the part of the lawyer in marking the writ petition in the cause list.