

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.339 of 1978

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Banbari Yadav

.... Appellant/s

Versus

Brahmdeo Yadav & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. R.P.Sinha 'Rajesh'

For the Respondent/s : Mr. Jagdish Pd.

Mr. Rajesh Sinha

Mr. Ritesh Kumar-2

Mr. Roy Saurabh Nath

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

23 06-11-2015

Heard the learned counsel for the respondent No.7 on

I.A. No.8254 of 2015.

This application has been filed for substitution of some of the respondents. In the said application, it is also mentioned at paragraph 8 that the sole appellant, Banbari Yadav died in September, 2009 leaving behind five sons and five daughters. It further appears that the office earlier placed the office note to the effect that copies of the I.A. has not been served on the other side. On 27.10.2015, nobody appeared on behalf of the appellant, therefore, he could not serve the copy. The case was adjourned for 04.11.2015. On that day also, nobody appeared and, therefore, it was directed that the I.A. may be listed under the heading for orders on petitions. Today again, when this application is called on

for hearing under the heading for orders on petitions, nobody appeared on behalf of the appellant.

From perusal of the memo of appeal, it appears that there is only one appellant, Banbari Yadav. According to the I.A., he has already died in September, 2009. Now, therefore, in view of Order 22 Rule 3(3) C.P.C., the appeal has automatically abated against the appellant and since there is no other appellant, the whole appeal has become now incompetent.

Accordingly, this appeal is dismissed as abated.

(Mungeshwar Sahoo, J)

Saurabh/-

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