

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.688 of 1985

=====

Smt. Parbati Devi & Ors.

.... Appellant/s

Versus

Bibi Salama & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Hari Shankar Shukla
Mr. Siya Sharan
Mr. Ranjan Kumar

For the Respondent/s : Mr.

=====

**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO**

ORAL ORDER

15 17-07-2015

Perused the office note dated 16.07.2015.

According to the office note, the First Appeal has already been dismissed for default against the respondent Nos.1 and 3.

From perusal of the impugned judgment, it appears that the plaintiffs-appellants filed the suit for specific performance of contract praying therein to direct the defendant-respondent Nos.1 to 3 to execute the sale deed with respect to suit land described in Schedule I of the plaint. The suit was contested by defendant No.3, who is respondent No.3 herein, against whom the appeal has already been dismissed.

It further appears that in the year 2000, the appellant

was directed to take steps for substitution of the legal representatives of the deceased respondent No.9 but still today, the appellant has not filed any substitution application. Therefore, the appeal has abated against the respondent No.9, as pointed out in the office note, item No.II.

From perusal of the impugned judgment, it appears that defendant No.9-respondent No.9 had also contested the suit and the plaintiff's suit has been dismissed against which the First Appeal has been filed. Now, therefore, in absence of the respondent No.1, 3 and 9, the appeal cannot proceed and in fact, it has become now incompetent.

Accordingly, this First Appeal is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

U		T	
---	--	---	--