

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.41 of 1987

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1. Ram Binod Choudhary
 2. Singari Choudhary alias Ram Singari Choudhary
 3. Ram Deyal Chaudhary
 4. Biunda Chaudhary
 5. Chjandra Shekhar Choudhary
- All sons of Late Jugal Chaudhary, residents of Village Gumati, PS Hajipur, District Vaishali
(..... Defendants Respondents)

.... Appellants

Versus

1. Ram Badan Singh, son of Dipu Singh (deceased) (since deceased)
2. Kedar Singh, son of Singheshwar Singh (since deceased)
3. Kishore Singh, son of Bhagwat Singh (deceased)
4. Ram Naumi Singh, son of Bhagwat Singh (deceased)
Residents of Village Gumati, PS Hajipur, District Vaishali
5. Smt. Banarsi Devi, wife of Basu Singh (since deceased)
6. Smt. Sebari Devi, wife of Ram Brichh Singh
7. Smt. Saya Devi, wife of Madhu Sudan Singh
All residents of Village Dilabarpur, PS Bidupur, District Vaishali
8. Smt. Diltorni Devi, wife of HBari Nandfan Tiwari
Resident of Village Bakarpur, PS Hajipur, District Vaishali
...(Plaintiffs Appellants)

.... Respondents

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Appearance :

For the Appellant/s : Mr. Murari Nr.Choudhary
Mr. Pramod Kr.Sinha

For the Respondent/s : Mr. Nawal Kishore Sharma
Mr. Satyendra Nr.Singh

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

24 02-02-2015 Heard learned Counsel for the appellants.

Perused the office notes. It transpires that this appeal stood rejected as against respondent nos. 5 and 8 for non compliance of the peremptory order. From the records it appears that respondent nos. 5 and 8 were also plaintiffs in the suit which was filed for declaration of title and recovery of possession with respect to the suit land. The appellate court has, by the impugned judgment and decree,

set aside the judgment and decree of the trial court dismissing the suit and granted the decree to the plaintiffs. As such, the proceedings further in this appeal in absence of respondent nos. 5 and 8 may result in conflicting orders and decrees.

This appeal, therefore, cannot proceed in absence of respondent nos. 5 and 8 on record and is, accordingly, dismissed as incompetent.

(V. Nath, J.)

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