

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.275 of 1987

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Bibi Saira Khatoon

.... Appellant/s

Versus

Nabu Jan Mian

.... Respondent/s

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Appearance :

For the Appellant/s

:

Mr. R.Chatta

Mr. Vijay Shankar Shrivastava

For the Respondent/s

:

Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR

SAHOO

ORAL ORDER

18 04-05-2015

Perused the office note dated 29.04.2015.

Since no substitution application has been filed for substitution of the legal representatives of deceased respondent No.1 to 4, 6, 8, 14, 15, 18 and 19, this appeal has already abated against the said deceased respondents in view of the provision as contained in Order 22 Rule 4 sub Rule 3 CPC.

From perusal of the Judgment, it appears that the respondent No.4 to 9 were contesting defendant in the Court below.

Since the appeal has already abated against the contesting defendant respondent No.4, 6 and 8, the whole appeal become incompetent because of the fact that in absence of the contesting defendants-respondents, the impugned Judgment and Decree neither can be altered nor set side nor modified. It further appears that the appeal has already abated against the plaintiff-respondent

No.1 to 3 also against whom the impugned Judgment and Decree has already been confirmed for non-substitution of the legal representative of the said deceased. It further appears that the sole appellant has also died and no substitution has been made.

In view of the above fact, now the appeal itself is incompetent as it has abated. Thus, it is dismissed as abated.

(Mungeshwar Sahoo, J)

Sanjeev/-

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