

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.510 of 1989

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Mithilesh Kr.Sinha

.... Appellant/s

Versus

State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Madan Mohan No-1
Mr. Yugal Pd.

For the Respondent/s : Mr. Madhu Sudan Singh
Mr. Dr.J.K.P.Sinha
Mr. Arun Kr.Sinha
Mr. Arbind Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

16 29-09-2015 Perused the office note dated 28.09.2014.

According to the office note, the appeal has already been dismissed against respondent No.1 to 6 and 8 to 9.

From perusal of the impugned Judgment, it appears that the plaintiff appellant filed the suit for realization of money alleging that his truck was illegally auction sold by the original defendant No.3, K.D. Sharma who was Special Officer in the Municipality. This auction sale was made without the knowledge of the plaintiff. According to the plaintiff, the value of the truck not less than 25,000/- but it was auction sold for Rs.1725/- only causing loss to the plaintiff to the extent of Rs.25,000/-. It may be mentioned that defendant No.3, K.D. Sharma, died. He auction sold the truck of

the plaintiff in the capacity of the Special Officer of the Municipality. After his death, the daughters and sons of K.D. Sharma has been substituted. The State of Bihar and the Collector are respondent No.1 and 2 and the Munger Municipality is respondent No.9. Against all of them except respondent No.7, the appeal has already been dismissed. Therefore, in absence of respondent No.1, 2 and 7, the decree passed by the Court below neither can be varied nor altered nor set aside and, therefore, in my opinion, this appeal has become now incompetent to proceed. Accordingly, this First Appeal is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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