

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.187 of 1991

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Bisheshwar Thakur, son of Srikant Thakur, resident of Village Govindpur
Bela, PS Baligaon, District Vaishali
----- Defendant--- Respondent

.... Appellant

Versus

1. Chalitar Mahto, son of Marachu Mahton
2. Deep Narayan Mahto, son of Chalitar Mahto
Both residents of Village Govindpur Bela, PS Baligaon, District
Vaishali
..... Plaintiffs Appellants

.... Respondents

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Appearance :

For the Appellant/s : Mr. Pramod Kr.Sinha
Mr. Murari Nr.Chy.
Mr. Sunil Kr.Singh
Mr. Manoj Kumar-1
Mr. Kaushal Kumar Singh
Mr. Muni Narain Choudhary

For the Respondent/s : Mr. Anil Kumar Upadhyay
Mr. Bishnu Kant Dubey

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

15 06-08-2015 Nobody appears on behalf of the appellants even after
taking adjournment in this matter earlier.

 This matter has been placed by the office for
consideration whether this appeal will be competent after its dismissal
as against the proposed heirs of deceased respondent No. 1.

 From the records it transpires that the plaintiff-
respondent No. 1 died on 10.7.1994. The appellants filed substitution
petition (flag 'C') praying to substitute and his heirs and legal
representatives as mentioned in para 2 of the substitution
petition. The notice was issued in the substitution matter upon
the proposed heirs of the deceased respondent No.

1. However, due to non compliance of the peremptory order the said substitution petition has stood dismissed. As the deceased respondent No. 1 was one of the plaintiffs in the suit, this appeal cannot proceed in absence of his heirs and legal representatives as it may lead to inconsistent orders or decree. As such, this appeal is dismissed as incompetent.

(V. Nath, J.)

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