

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.330 of 1992

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Hidayatullah son of late Tufail Ahmad, proprietor, “Eye Shade” Opticians,
Opposite Patna Women’s Hospital Muradpur, P.S. Pirbahore, District-
Patna.

.... Appellant/s

Versus

1. Baliram Tamoli son of name not known resident of Mohalla-Sarai
Chowk Gaya, Police Station Kotwali, District-Gaya.
2. Dwarika Prasad Nagbanshi.
3. Sona Prasad Nagbanshi.
4. Gopal Prasad Nagbanshi
5. Jawahar Lal Nagbanshi, Sl. 2, 3 and 5 are sons of late Dasain Lal
Nagbanshi.
6. Suresh Prasad Nagbanshi son of sona Pd. Nagbanshi all resident of
Mohalla-Jairam Bazar, P.S. and P.O. Khagaul, District-Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. ,
Mr. Abdus Salam
Mr. Abbas Haider

For the Respondent/s : Mr. Madan Pd.Singh -2

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

14 02-07-2015

Heard the learned counsel for the appellant.

This appeal has been placed today for considering the
competency after its dismissal as against respondent no. 4 (1).

It transpires from the records that the plaintiff-
respondent no. 4 Krishna Prasad Nagbanshi died during the
pendency of this appeal and on the prayer of the appellant the
respondent no. 4 (1) Gopal Singh Nagbanshi was substituted in his

place by order dated 07.08.1995. It further transpires that this appeal stood dismissed for default as against respondent no. 4 (1) for non-compliance of the order dated 20.05.2009.

The learned counsel for the appellant has not disputed the fact that the respondent no. 4 was also one of the plaintiffs in the court below along with the other plaintiffs and this fact is also apparent from the appellate decree under appeal. After dismissal of the appeal as against respondent no. 4 (1) in this regard, proceeding further with this appeal may result in inconsistent orders and decrees.

As such, this appeal is dismissed as incompetent.

(V. Nath, J)

Devendra/-

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