

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.195 of 2001

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1. Ram Ishwar Pandit
2. Laloo Pandit
3. Ram Lakshman Pandit @ Ram Lachhan Pandit
4. Arun Pandit, All sons of Late Singheshwar Pandit
5. Most. Hiriya, wife of Late Singheshwar Pandit
.....Defendant 1st Party Respondents
..... Appellants
6. Ram Bilash Pandit, son of Late Bhukhloo Pandit
..... Defendant 2nd party Respondents
..... Appellants

Versus

1. Nand Kishore Prasad Sinha (expunged)
1(i). Mostt. Sheela Sinha, wife of Nand Kishore Pd. Sinha
1(ii). Sunita Kumari
I(iii). Nitu Kumari
I(iv). Suriya Kumari
1(v). Kanchi Kumari Sinha
1(vi). Urwashi Kumari, all daughters of Nand Kishore Prasad Sinha
1(vii) Sudhir Kumar Sinha
1(viii). Deepak Kumar Sinha
1(ix). Ranvir Kumar Sinha
1(x). Ajit Kumar Sinha
All residents of Village Subdhiya Bishunpur Ram, PS Maniyari, District Muzaffarpur
..... Plaintiffs.... Appellants Respondent
2. Janak Pandit (expunged)
2(i). Maheshwari Devi, wife of Janak Pandit
2(ii). Sukhdeo Pandit
2(iii). Lakshman Pandit
2(iv). Rudal Pandit
2(v). Pintu Pandit
2(vi). Sarjan Pandit
2(vii). Sonu Pandit, all sons of Late Janak Pandit, All residents of Village Subdhiya Vishunpur Ram, PO Maniyari, PS Maniyari, District Muzaffarpur
2(viii) Kanti Devi, daughter of Late Janak Pandit, wife of Chandeshwar Pandit, resident of Village Vashauli, Tole Ramchandra, PO Vashauli, PS Kurahi, District Muzaffarpur
2(ix). Gita Devi, daughter of late Janak Pandit, wife of Binda Pandit, resident of Village Mniyari, PO + PS Maniyari, District Muzaffarpur
..... Respondents Respondents
..... Respondents

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Appearance :

For the Appellant/s : Mr. Bijendra Kumar Singh
Mr. /Mrs.P.K.Shushma

For the Respondent/s : Mr. Rajeev Ranjan
Mr. Bela Singh

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

26 23-03-2015

No one appears on behalf of the appellants. Learned Counsel for the deceased respondent no. 1 is present.

Perused the office notes. It transpires that after the demise of plaintiff respondent no. 1, Nand Kishore Prasad Sinha, on 22.7.2009, his heirs and legal representatives were substituted by order dated 17.12.2009 and appeal notices were issued to the substituted heirs. The appeal notices were validly served on some of the substituted respondents and with regard to substituted respondent no. 2(vi), the service report showed that she was dead.

By order dated 20.11.2013, the appellants were granted two weeks' time to take steps for substitution of the heirs and legal representatives of deceased respondent no. 2(vi). As the aforesaid direction remained un-complied, again by order dated 19.12.2013 the appellants were allowed time to file substitution petition with regard to deceased respondent no. 2 (vi). The said order was again not complied and by order dated 24.12.2014 the appellants were granted time till one week after X-mas holidays to comply the direction as contained in the order dated 19.12.2013 by filing substitution petition with regard to deceased respondent no. 2 (vi), peremptorily. Due to non compliance of the said direction this appeal stood dismissed for default against respondent no. 2(vi) and formal order for dismissal for default was passed on 16.1.2015.

It transpires from the records that respondent no. 2(vi) has

been substituted in place of deceased plaintiff respondent along with other heirs. After dismissal of this appeal as against respondent no. 2(vi) proceeding further with this appeal may result in chances of conflicting orders and decrees. As such, this appeal cannot proceed and is dismissed as incompetent.

(V. Nath, J.)

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