

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3419 of 2005

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Birendraojha

.... Petitioner/s

Versus

Braj Kishore Ojha

.... Respondent/s

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Appearance :

For the Petitioner/s

:

Mr. Pravina Kumari

Mr. Ravindra Kumar Rai

For the Respondent/s

:

Mr. Susanta Kumar Roy

Mr. Abinash Kumar

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

18 27-07-2015

No one appears on behalf of petitioner. However, Mr.

Sukumar Sinha, Senior Advocate for the respondent is present.

By order date d 29th July 2005, passed in F.A.No. 24 of 1994, this Court had given liberty to withdraw the appeal as the appellants were not interested to prosecute the case. It will be appropriate to quote the order as follows:

“29.07.2005 : The I.A.No.408/05 has been filed by the appellants with a prayer to grant permission for withdrawing this appeal.

The learned counsel Shri Sukumar Sinha for the appellants submits that the appellants do not want to prosecute this appeal, hence, they may be permitted to withdraw this appeal. In view of the submission of the learned counsel, this appeal is

dismissed as withdrawn”.

In the present application, prayer has been made to recall the order stating the fact in Para-6 that appellant no.1 was gained over by respondent no.1 and appellant no.1 filed I.A.No. 408 of 2005 to withdraw the entire appeal without the consent of petitioner and, accordingly, the appeal was withdrawn on the advice of appellant no.1. In order to support the contention in Para-7 he has given an example showing influence of respondent no.1 upon appellant no.1.

Earlier counsel for the appellants had taken time for taking instruction in the matter.

It appears from the record that for withdrawal of the appeal, an application was filed which was registered as I.A.No. 408 of 2005 in which special permission was sought for withdrawal.

After lapse of such along period and also on account of absence of counsel, this Court is not inclined to interfere in the matter. Accordingly, this petition is dismissed for default.

It is relevant to mention here that this Court is not expressing opinion on the merit of the case with regard to the allegation made in the application.

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(Shivaji Pandey, J)