

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.341 of 2011

=====

Suresh Pd. Malakar	Versus	 Appellant/s
Shakuntala Devi & Ors		 Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Satish Kumar
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

19 10-03-2016

Nobody appears for either of the parties.

Two second appeals i.e. S.A. No. 341 of 1991 and S.A. No. 341 of 2011 have been placed today under the heading to be mentioned in view of the mistake in the order-sheets of the two appeals.

From the perusal of the records, it appears that on 22.12.2015 the aforesaid two appeals were placed under the heading for office note and for hearing under Order 41 Rule 11 C.P.C. respectively. The order passed on 22.12.2015 in S.A. No. 341 of 1991, which was placed under the office notes, is as follows:-

“Nobody again appears on behalf of the appellant when the matter has been called out.

Mr. Upendra Prasad No. 2, Advocate, has appeared on behalf of the respondents.

As nobody has appeared on behalf of the appellant this appeal is dismissed for

want of prosecution.”

In Second Appeal No. 341 of 2011 which was placed for hearing under Order 41 Rule 11 C.P.C., the order was passed on 22.12.2015 as follows:-

“Nobody appears on behalf of the appellant.

Perused the office note.

One week’s time after x-mas holidays is allowed to the appellant to file appropriate petition regarding the status of respondent no. 2 as minor or major and to make appropriate prayer.”

However, it transpires that due to inadvertence while typing out the aforesaid orders, the order dated 22.12.2015 as abovementioned passed in the two appeals respectively have been incorrectly typed out in the order-sheets inasmuch the order which was passed in S.A. No. 341 of 1991 came to be recorded in S.A. No. 341 of 2011 and similarly the order dated 22.12.2015 which was passed in S.A. No. 341 of 2011 came to be recorded in S.A. No. 341 of 1991.

In view of the fact that the said mistake has been committed inadvertently having been misled by the same number of the two second appeals though the years are different, the order dated 22.12.2015 passed in S.A. No. 341 of 1991 is recalled and

similarly the order dated 22.12.2015 passed in S.A. No. 341 of 2011 is also recalled and it is further directed that the order dated 22.12.2015 in S.A. No. 341 of 1991 shall now read as follows:-

“Nobody appears on behalf of the appellant.

Perused the office note.

One week’s time after x-mas holidays is allowed to the appellant to file appropriate petition regarding the status of respondent no. 2 as minor or major and to make appropriate prayer.”

Similarly it is also directed that in S.A. No. 341 of 2011, the order dated 22.12.2015 shall read as follows:-

““Nobody again appears on behalf of the appellant when the matter has been called out.

Mr. Upendra Prasad No. 2, Advocate, has appeared on behalf of the respondents.

As nobody has appeared on behalf of the appellant, this appeal is dismissed for want of prosecution.”

The office is directed to take appropriate steps as required after this order and also to proceed accordingly in both appeals.

Devendra/-

U			
---	--	--	--

(V. Nath, J)

