

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**First Appeal No.169 of 2007**

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|---------------------------|------|------|--------------|
| Santosh Kumar Dubey & Ors | .... | .... | Appellant/s  |
| Versus                    |      |      |              |
| Sabitri Devi & Ors        | .... | .... | Respondent/s |

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**Appearance :**  
For the Appellant/s : Mr. Ajay Kumar Pandey  
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO**  
**ORAL ORDER**

8      15-01-2015      Learned counsel Mr. Raghvendra Sharan Pandey submitted that he has obtained vakalatnama duly executed by appellants and he will file vakalatnama after taking ‘No Objection’ from the earlier learned counsel, who had filed the vakalatnama, within one week.

It appears that this first appeal has been filed under Section 299 of the Indian Succession Act against the judgment in a probate proceeding. In such view of the matter in view of the decision of this Court in the case of **Most. Kewala Devi Vs. Sri Krishna Devi, 2013 (1) P.L.J.R. 176** this first appeal is not maintainable rather miscellaneous appeal is maintainable. The learned counsel named above shall convert this first appeal to miscellaneous appeal within two weeks from today and if it is not converted to miscellaneous appeal, this first appeal shall stand dismissed as not maintainable.

Harish/-

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**(Mungeshwar Sahoo, J)**