

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.233 of 1998

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1. Sharda Devi, wife of Late Kameshwar Singh
2. Sarveshwar Prasad Singh
3. Rana Jang Bahadur Singh
4. Randhir Prasad Singh
5. Ram Bahadur Singh, all sons of late Kameshwar Singh
All residents of Village Chautham, P.S. Chautham, District Khagaria
6. Kiran Devi, wife of Binod Kumar Singh, resident of Villae Khurhan,
Police Station Alamnagar, District Madhepura.... Appellant/s
Versus
1. Rajendra Singh, son of Ananta Pd. Singh, resident of Village Chautham,
P.S. Chautham, District Khagaria
..... Plaintiff Appellant
2. Rajniti Prasad Singh
3. Deoniti Prasad Singh, both sons of Nand Kumar Singh (deceased)
4. Muneshwar Singh, son of Vidyananda Singh (deceased)
5. Smt. Rambha Devi, wife of Late Ram Chandra Singh
6. Baby Devi, daughter of Late Ram Chandra Singh, wife of Amarjit Singh
at & Post office Naugarah, District Bhagalpur
7. Puran Singh
8. Jogi Singh, both sons of Late Ram Chandra Singh
9. Kumari Runa, minor daughter of Late Ram Chandra Singh
10. Mauleshwar Prasad Singh, son of Vidyananda Singh
All except respondent no. 6 are residents of Village + Post office
Chautham, P.S. Chautham, District Khagaria
..... Defendant 2nd party.....Respondent
11. Om Prakash Singh, son of Jagendra Prasad Singh resident of Village +
Post office Chautham, P.S. Chautham, District Khagaria
..... Defendant 3rd party.....Respondent
12. Umakant Singh, son of Anant Prasad Singh (deceased) resident of
Village + Post office Chautham, P.S. Chautham, District Khagaria
..... Defendant 4th party Resondent
13. Devendra Prasad Singh, son of Anand Prasad Singh (deceased), resident
of Village + Post office Chautham, P.S. Chautham, District Khagaria
..... Defendant 5th party Respondent
..... Respondents
- =====

Appearance :

For the Appellant/s : Mr. Ranjit Kumar Singh 1
For the Respondent/s : Mr. Birendra Mohan Singh
Mr. Ajay Kumar Singh
Mr. Sunita Kumari
Mr. Ranjan Kumar Dubey
Mr. R.S.Dwivedy
Mr. Shailendra Kumar Dwivedy

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

28 28-07-2015 Nobody appears on behalf of the appellants. The learned Counsel for respondent No. 1 is present.

The matter has been placed today for considering the competency of this appeal after its abatement as against the heirs and legal representatives of the deceased respondent No. 3. It transpires that by earlier order dated 28.7.2014, in view of the averments made in I.A. No. 847 of 2014 filed on behalf of the respondents, two weeks' peremptory time was allowed to the appellants to take steps for substitution of the heirs and legal representatives of the deceased respondent No. 3. It appears that thereafter no step for substitution of the deceased respondent No. 3 has been taken and this appeal stood rejected as against the heirs and legal representatives of deceased respondent No. 3 by virtue of the order dated 28.7.2014.

Learned Counsel for the respondent has submitted that the relief in the suit was prayed as against all the defendants including respondent No. 3 and therefore after the dismissal of this appeal as against his heirs and legal representatives this appeal cannot proceed. No one has appeared on behalf of the appellants to controvert the aforesaid submission on behalf of respondent No. 1.

In that view of the matter, this appeal is held to have become incompetent and is accordingly dismissed.

(V. Nath, J.)

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