

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.248 of 2008

- =====
1. Dashrath Pandit
 2. Manghoo Pandit
 3. Mahadeo Pandit, all sons of Late Bideshi Pandit, residents of Village Mokama Dhaurani Tola, PS Mokama, District Patna
 4. Tara DSevi, daughter of late Bideshi Pandit and wife of Bishundeo pandit, resident of Modangachhi, PS Mokama, District Patna
 5. Gayatri Devi, daughter of Late Bideshi Pandit and wife of Bhagwan Pandit, resident of Lakhanchand, PS Mokama, District Patna
 6. Sudama Devi, daughter of late Bideshi Pandit and wife of Raghunandan Pandit, resident of Dariyapur, Mokama, PS Mokama, District Patna
- Plaintiffs Respondents

.... Appellants

Versus

1. Ram Lakhan Pandit, son of Late Kulo Pandit
 2. Banarsi Pandit
 3. Kashi Pandit
 4. Om Prakash Pandit, all sons of Ram Lakhan Pandit
 5. Ram Gulam Pandit, son of Late Kulo Pandit
 6. Onkar Pandit
 7. Santosh Pandit
 8. Bishnu Pandit, all minor sons of Ram Gulam Pandit and under the guardianship of their father. All nos. 1 to 8 residents of Mokama Dharauni Tola, PS Mokama, District Patna
 9. Lalia Devi, daughter of late Kulo Poandit and wife of Sita Ram Pandit, resident of Kazichak, PS Barh, District Patna
 10. Ata Devi, daughter of Late Kulo Pandit and wife of Saryug Pandit, resident of Mokama Dharauni Tola, PS Mokama, District Patna
- Defendants Appellants

.... Respondents

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Appearance :

For the Appellant/s : Mr. Anjana Bhagat
Mr. Samir Kumar Ranjan
Mr. Ravindra Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

8 08-04-2015

Nobody appears on behalf of the appellants.

Perused the office notes.

By order dated 3.12.2014 the prayer on behalf of the

appellants to grant time till 9th of January 2015 to file appropriate application for substitution or otherwise of respondent nos. 1 and 10, who were reported to be dead, was allowed. However, no petition for substitution with regard to respondent nos. 1 and 10 was filed. There is also no explanation on record for not filing the said substitution petition as prayed. This appeal, therefore, has abated as against the heirs and legal representatives of respondent nos. 1 and 10.

From perusal of the records, it further transpires that the appellants in this appeal were plaintiffs in the suit and have assailed the judgment and decree passed by the appellate court reversing the grant of decree by the trial court. Respondent nos. 1 and 10 were defendants 1 and 10 in the suit. It further transpires that respondent no. 1 has filed his separate written statement and contested the suit.

It is, therefore, obvious that after abatement of this appeal as regards respondents 1 and 10, proceeding further may result in inconsistent orders and decree.

In the result, this appeal is dismissed as incompetent.

(V. Nath, J.)

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