

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.404 of 1977

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Mostt. Kishoree Devi & Ors

.... Appellant/s

Versus

Suresh Pd. & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Akhouri Baidya Nath Pd.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

38 28-09-2016

Perused the office note dated 27.09.2016.

It appears that the First Appeal has already been dismissed for default against the respondent Nos.1(a) to 1(f) who were substituted after the death of respondent No.1. From perusal of the memo of appeal, it appears that the respondent No.1 was the only plaintiff in the Court below in whose favour the judgment and decree was passed.

In view of the fact that the appeal has already been dismissed against the heirs of the deceased respondent No.1, there is nobody on record to represent the estate of the deceased respondent No.1 who was the plaintiff in the Court below. As such, in absence of the heirs of the respondent No.1, the impugned judgment and decree cannot be either altered, modified or set aside.

In my opinion, therefore, this First Appeal has become

now incompetent to proceed.

Thus, this First Appeal is dismissed.

(Mungeshwar Sahoo, J)

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