

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.693 of 1978

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Dholan Singh & Ros

.... Appellant/s

Versus

Phulwati Devi & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. K. K. Ghose
Mr. N. K. Shrama

For the Respondent/s : Mr. B.Singh
Mr. V.R.Prasad
Mr. Birju Prasad
Mr. Lal Bihari Singh

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

25 16-08-2016

Perused the office note dated 12.08.2016.

It appears that the appeal has abated against the deceased respondent nos.3 and 5. Further the appeal has been dismissed for default against respondent nos.4 and 6. The aforesaid respondents were plaintiffs in the court below. The first appeal arises out of partition suit wherein the aforesaid respondents were plaintiffs and the decree is in their favour. Now in absence of the aforesaid plaintiffs-respondents the decree neither can be altered, modified nor set aside at the instance of the defendant.

In view of the above facts and circumstances, in my

opinion, the first appeal itself is incompetent to proceed.
Accordingly, this first appeal is dismissed.

(Mungeshwar Sahoo, J)

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