

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.95 of 1983

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Ram Ishwar Singh

.... Appellant/s

Versus

Jai Mangal Singh & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kamal Kumar
Mr. Dhupendra Nr.Yadav
Mr. Kaushal Kr.
Mr. Satyendra Narayan

For the Respondent/s : Mr. Devendra Kumar Singh
Mr. Ravindra Kumar Sinha
Mr. Manoj Kr.-I
Mr. Niraj Kr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

20 29-03-2016

Nobody appeared on behalf of the appellant.

The learned counsel, Mr. Dhurendra Kumar for the respondents-interveners submitted that the sole appellant has died on 04.10.2007 leaving behind no heirs. An application being I.A. No.30 of 2008 has been filed for transposition of the intervener-respondent as appellant in place of the deceased sole appellant on the ground that the intervener has purchased the property from the appellant.

From perusal of the impugned judgment, it appears that this First Appeal arises out of the Letters of Administration case filed by the appellant before the Court below being L.A. Case

No.6 of 1980. The Court below has dismissed the Letters of Administration case by the impugned judgment and order dated 28.01.1983.

It is settled principles of law that in a proceeding under Section 278 of the Indian Succession Act, 1925, the question of title cannot be gone into as has been held by the Hon'ble Supreme Court in a decision (2008) 4 Supreme Court Cases 300. Therefore, whether the petitioner has purchased the property or has acquired the title in the property or has got any right to pursue his remedy cannot be gone into in this First Appeal arising out of the Letters of Administration case and, therefore, he cannot be transposed as appellant.

Accordingly, the application filed by the interveners is hereby rejected. Since the sole appellant has died in the year 2007 and no substitution application has been filed within the limitation period, the appeal has abated.

In view of the above position, this appeal is dismissed as abated. The other two applications thus stands disposed of.

(Mungeshwar Sahoo, J)

Saurabh/-

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