

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.355 of 1987

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Satya Narayan Pd.

.... Appellant/s

Versus

Ram Kash Bhuyan & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Chitra Gupta Pd.
Mr. Om Prakash Sinha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

23 18-10-2016 Heard learned Counsel for the parties and perused the records.

By order dated 9.2.2015, liberty was granted to the appellant to get the notice published in the news paper mentioned in the said order. The appellant was further directed to file affidavit immediately after publication of the notice along with the paper cutting supporting the said publication. It appears from the order dated 23.6.2016 that no such step was taken by the appellant and consequently further two weeks' time was allowed to the appellant to file the affidavit in support of the publication of notice as earlier directed.

As no petition was filed within the time granted the substitution petition (I.A. No. 6320 of 2010) and the limitation petition (I.A. No. 8923 of 2010) have been reported to be dismissed for default as against the proposed respondent Nos. 3(iv), 3(v), 5(v), 5(vi), 6(iv), 6(v) and 7(i). It further appears from the record that the aforesaid respondents were defendants in the suit whereas the

plaintiff is the appellant in this appeal against the judgment and decree of affirmance.

Learned Counsel for the appellant could not substantiate the position that this appeal can proceed in absence of the deceased respondents with regard to whom substitution petition (I.A. No. 6320 of 2010) along with the limitation petition (I.A. No. 8923 of 2010) have been dismissed. As such, proceeding further with this appeal may result in inconsistent orders and conflicting decrees.

This appeal is accordingly dismissed as incompetent.

(V. Nath, J.)

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