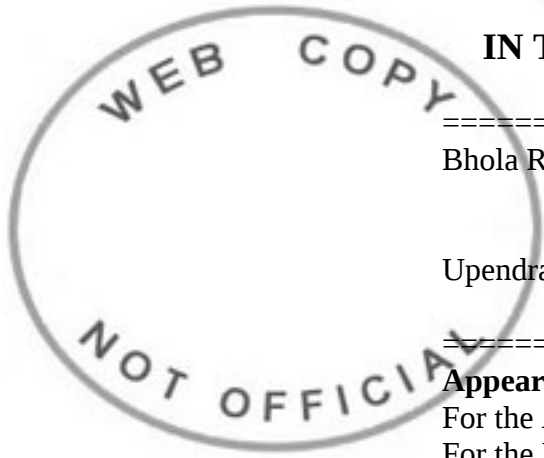




IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.309 of 1990

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Bhola Rai

.... Appellant/s

Versus

Upendra Choudhary & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Jaya Nand

For the Respondent/s : Mr. Madhav Rai

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

11 22-09-2016 Today also no one is present on behalf of the appellant.

Sri Madhav Rai, the learned counsel for the respondents is present. He submits that this appeal arises out of the probate case. Probate was granted in favour of the plaintiffs who are respondent nos. 1 and 2 and after the death of respondent no.2 his legal heirs has not been noticed resulting this appeal has been dismissed as against respondent nos. 2 (a) and 2 (b) and as the judgment is not separable and as such now against respondent no.1 this appeal cannot proceed and the appeal has become incompetent as a whole.

Under the circumstances, considering submission of the learned counsel for the respondents and further considering the

judgment under appeal, this appeal has become incompetent as a whole and cannot proceed against only respondent no.1.

In the result, this appeal is accordingly hereby dismissed.

(Jitendra Mohan Sharma, J)

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