

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.678 of 2016**

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Makeshwar Yadav & Anr

.... Appellant/s

Versus

Harish Chandra Das

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kundan Kumar

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

3 18-10-2016

Heard the learned counsel for the petitioners.

Perused the impugned order dated 22.04.2016 passed by learned Additional District Judge, Rosera, Samastipur in Title Appeal No.3 of 2006 whereby the Court below has dismissed the appeal as abated.

From perusal of the impugned order, it appears that the sole appellant died in the year 2011. No substitution application was filed. On the date, when the order was passed, nobody appeared on behalf of the appellant or on behalf of this petitioner. The Court below on the application which was filed by the defendant held that no substitution application has been filed and, therefore, the appeal has abated.

In view of the above fact, admittedly, the sole appellant had died and within 90 days, no substitution application was filed, therefore, the appeal has already abated. In such circumstances, I

find no reason to interfere with the impugned order.

However, if the petitioner has got any title or interest in the property, which according to him has been purchased by him from the son of the appellant, he may initiate appropriate proceeding. It appears that although he had filed the application for being added as party under Order I Rule 10 C.P.C., it was never pressed by him which would be evident from the order impugned.

Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this Civil Miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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