

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.241 of 2011

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Shabitri Kumari & Ors

.... Appellant/s

Versus

Umesh Shah And Ors.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Pushpendra Kumar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

10 04-05-2016

Learned Counsel for the appellants is present.

Perused the office note, where it has been pointed out that this appeal has stood dismissed as against respondent nos. 1, 3 to 5, 9, 11 to 13, 14, 24, 27 and 28 for default for non compliance of the earlier order.

It transpires that by order dated 21.12.2015 the appellants were allowed two weeks time to take steps for appeal notice on respondent nos. 3 to 5, to file affidavit stating jointness of respondent Nos. 9, 11, 12, 13 and 14 with respondent No. 8 and respondent No. 24 with respondent No. 20 and respondent Nos. 27 and 28 with respondent No. 26 and also to take steps for substitution with regard to deceased respondent No. 1. It further transpires from the office note that no step has been taken in compliance of the aforesaid directions which were peremptory in nature resulting in dismissal of this appeal for default as against respondent Nos. 1, 3 to 5, 9, 11 to 13, 14, 24, 27 and 28.

Learned Counsel appearing for the appellants has submitted that he will get the order complied if further time is

allowed to the appellants as the appellants could not be contacted by the counsel. There is no submission how this appeal will survive after its dismissal as against the aforesaid respondents, some of whom were plaintiffs in the suit which has been decreed by both the courts below.

In this view of the matter, this Court comes to the conclusion that proceeding further with this appeal with the remaining respondents may result in conflicting orders or inconsistent decrees. As such this appeal is dismissed as incompetent.

(V. Nath, J.)

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