

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.755 of 1994

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1. Kumar Krishna Nand son of Chhedi Choudhary
 2. Bipin Kumar Choudhary son of Chhedi Choudhary. All resident of Village- Bariarpur Bazar, P.O. Bariarpur, P.S. Muffasil, District- Munger.

Plaintiffs-Appellants

Versus

1. Rani Devi widow of late Lakhan Sah
2. Shailendra Sah son of late Lakhan Sah
3. Satish Sah son of late Lakhan Sah
4. Muni Devi D/O Late Lakhan Sah
5. Binod Sah S/O Late Lakhan Sah
6. Rupan Kumari D/O Late Lakhan Sah. All resident of Village & P.O. Bariarpur, P.S. Muffasil, District- Munger

Defendant 1st party-Respondents.

7. Smt. Chandrakala Devi W/O Late Brahmdeo Choudhary
8. Krishnadeo Choudhary S/O Late Nand Kumar Choudhary
9. Mahesh Choudhary
10. Dinesh Prasad Choudhary, both sons of late Satya Narain Choudhary. All residents of Village- Fulkia Brahmstan, P.O. Bariarpur, P.S. Muffasil, District- Munger.

Defendant 2nd set- Respondents

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Appearance :

For the Appellants : Mr. Ram Sevak Choudhary, Advocate.

For the Respondents : Mr. Neeraj Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

12 04-10-2016

Interlocutory Application No. 7440 of 2016.

This is an application under section 151 of the C.P.C. praying therein to permit appellant nos. 2 and 3 to withdraw this appeal on the ground that appellant no.1 died in the year 2004, but his legal heirs and representatives never approached the court for substitution of his heirs. The matter has already been settled between the parties out side the court and therefore the appellant nos. 2 and 3 want not to proceed with the aforesaid First Appeal.

As in place of Naresh Choudhary, the deceased appellant no.1, no legal heir or representative has come forward to be substituted in his place and as such this appeal has abated against the deceased appellant no.1. So far appellant nos. 2 and 3 are concerned, they have filed this petition to permit them to withdraw this First Appeal on the ground that the matter has already been settled between the parties out side the court, therefore, appellant nos. 2 and 3 does not want to proceed with this appeal.

Under the circumstances, the appellant nos. 2 and 3 are allowed to withdraw this appeal and accordingly, this appeal is dismissed as withdrawn.

(Jitendra Mohan Sharma, J)

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