

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.784 of 1976

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Sheo Nandan Pd & Ors

.... Appellant/s

Versus

Most Sahogia Devi @ Bandri & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajendra Prasad
Mr. Samir Kumar Ranjam
Mr. Vidyasagar

For the Respondent/s : Mr. Alok Kr.Sinha

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

27 09-02-2017 Learned counsel Mr. Vidyasagar for the appellants submitted that this first appeal arises out of probate case whereby the probate application was rejected by the judgment dated 22.09.1976 passed by Additional District Judge, Munger in Title Suit No.24 of 1970. According to the learned counsel, the original petitioner Pyrayag Mahto filed the application under Section 276 of the Indian Succession Act praying for the grant of probate claiming that he has been appointed as executor in Will. However, the original petitioner Prayag Mahto died. According to Section 222 of the Indian Succession Act, probate can be granted to executor only. Since the executor had already died, no probate can be granted to the present appellants. The present appellants have got right only to file application for issuance of letters of



administration. On the basis of this submission the learned counsel submitted that he may be permitted to withdraw this first appeal with liberty to file letters of administration case under Section 278 of the Indian Succession Act before the appropriate forum.

In view of the above submission of learned counsel for the appellants, the appellants are permitted to withdraw this first appeal. Accordingly, this first appeal is dismissed as withdrawn with liberty to the appellants to file letters of administration case, if law permits.

(Mungeshwar Sahoo, J)

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