

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.634 of 1980

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Birendra Nath Dubey & Ors

.... Appellant/s

Versus

Janak Dubey & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. D.P.Sharma
Mr. R.P.Singh

For the Respondent/s : Mr. Dekeshwar Pd. Jha

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

15 13-07-2017 Nobody appeared

Perused the office note dated 12.07.2017.

It appears that direct notice was issued to the appellant on 18.11.2016. The learned counsel, Mr. Awadesh Kumar, appeared on behalf of some of the appellant undertook to file Vakalatnama within one month but when Vakalatnama was filed, the said appellants were transposed as respondent. The appellants were directed to file the substitution application for the substitution of the legal representatives of the deceased respondent No.1 to 3 as they have already died which would be evident from the office note dated 17.11.2016.

In view of the above facts, now it is admitted fact that the substitution application has not been filed by the appellant within 90 days prescribed by the law of limitation. Therefore, the appeal



has abated against the deceased respondent No.1 to 3.

From perusal of the memo of appeal, it appears that the only contesting respondents are the respondent No.1 to 3 against whom the appeal has already been abated as aforesaid. Now, therefore, this appeal has become incompetent to proceed.

Accordingly, this First Appeal is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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