

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No. 244 of 1989

Mostt. Mukha Kuer

.... Appellant

Versus

Mostt. Lakhchhaminia Kuer

.... Respondent

Appearance :

For the Appellant : Mr.

For the Respondent : Mr. Birendra Singh, Advocate
Mr. Ramashish, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

16 11-12-2017

No one appears on behalf of the appellants.

Perused the office report dated 08.12.2017.

It appears that the appeal has already abated against deceased respondent no. 1 and 10 due to non-substitution of the legal heirs in pursuance of order dated 19.05.1997. Now file has been placed for order whether the whole appeal would abate or it would abate only against respondent no. 1 and 10.

Since this appeal arises out of a decree passed in a partition suit, each and every party has a share in the suit property and no decree can be passed in absence of any of the necessary party. Hence, no cause of action survives with the appellants in absence of deceased-respondent no. 1 and 10.

Accordingly, the whole appeal would abate.

Accordingly, this appeal is dismissed.

(Birendra Kumar, J)

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