

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.412 of 1983

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Sairunissa & Ors

.... Appellant/s

Versus

Afrar Ahmad

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Lalit Kushore

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

13 11-07-2017 The learned counsel for the appellants submitted that in spite of his best effort, the appellants could not be contacted and, therefore, he is unable to file substitution application regarding the death of respondent No.1.

Admittedly, the substitution application has not been filed within the limitation period. Therefore, in view of the provision as provided under Order 22 Rule 4(3) C.P.C., the appeal has abated against the deceased respondent No.1.

From perusal of the memo of appeal, it appears that the name of respondent No.2 has already been expunged earlier on the ground that her only legal representative is on record as respondent No.1. Since the appeal has also abated against respondent No.1, now there is nobody to defend this appeal.

Thus, this first appeal is incompetent to proceed. Accordingly, this first appeal is dismissed.

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(Mungeshwar Sahoo, J)

