

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No. 209 of 1997

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Nageshwar Singh

.... Appellant

Versus

Harihar Singh & Ors.

.... Respondents

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Appearance :

For the Appellant : Mr. Mritunjay Prasad Singh

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

10 03-08-2017

The office has reported that the appeal abated against the heirs of deceased respondent nos. 1 and 3 for non-compliance of peremptory order dated 18.08.2016 within time.

In the circumstances, order of the Court has been sought for whether the appeal would continue against the remaining respondents.

It appears that the appellant was plaintiff in Title Suit No. 28 of 1979 for declaration of title and confirmation of possession brought against the respondents. The suit was dismissed and the dismissal was affirmed by the learned lower appellate court in Title Appeal No. 73 of 1987.

In view of the aforesaid fact, no order can be passed without hearing the heirs of respondent no. 1 and 3.

Hence, the appeal be treated as abated as a whole as right to sue does not survive against the remaining respondents.

(Birendra Kumar, J)

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