

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.210 of 2002

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Kishori Singh

.... Appellant/s

Versus

Ram Ishwar Singh & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sidhendra Narayan Singh

For the Respondent/s : Mr. Jeetendra Nath Tripathy

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

6 28-03-2017 Perused the office note dated 27.03.2017.

It appears that because of non-compliance of the peremptory order passed by the Bench, the appeal has already been dismissed against respondent No.1 who was defendant No.1 in the court below. The plaintiff prayed for declaration that the sale deed executed by defendant No.1 in favour of defendant No.2 is not binding on the plaintiff and then prayed for half share in the suit property. The suit was contested by defendant No.1 who is the son of the plaintiff-appellant. After contest, the suit of the plaintiff has been dismissed and, therefore, the plaintiff has filed this present First Appeal.

Since the suit has been dismissed on the basis of contest made by the defendant-respondent No.1, now in absence of the defendant-respondent No.1, the impugned judgment neither can be set aside or modified or altered by the appellate court nor effective



decree for partition can be granted. Defendant No.2 is purchaser of part of the suit property.

Thus, in view of the above facts, this First Appeal has become now incompetent to proceed. Accordingly, this First Appeal is dismissed.

(Mungeshwar Sahoo, J)

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