

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.271 of 1994

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1. Nemchand Prasad @ Nemchand Prasad Agrawal son of Sahdeo Prasad.
 2. Mahendra Prasad @ Mahendra Prasad Agrawal son of Nemchand Prasad.
 3. Alok Kumar.
 4. Jitendra Kumar.
 5. Ganesh Prasad.
 6. Basant Prasad, all minor sons of Mahendra Prasad through their father and natural guardian Mahendra Prasad @ Mahendra Prasad Agrawal.
 7. Chandra Ketu Prasad minor son of Mahendra Prasad @ Mahendra Prasad Agrawal father and natural guardian, all resident of village-Bhagwanpur, Anchal Bhagwanpur, at present town Bhabua P.O. and P.S. Bhabua, District-Bhabua(kaimur).

.... Appellant/s

Versus

1. Ashok Kumar Agrawal son of late Sri Niwas Prasad, resident of village Bhabua ward No. 2, P.O. and P.S. Bhabua, District-Bhabua(Kaimur).
2. Sheo Prasad Agrawal.
3. Banke Bihari Agrawal.
4. Chaturbhuj Prasad alias Lala sons of late Sri Niwas Prasad.
5. Raj Kumar Agrawal.
6. Raju Agrawal.
7. Mukesh Agrawal minor sons of Sheo Prasad Agrawal, minor is under guardianship of shoe Prasad Agrawal father and natural guardian.
8. Boy not named (minor son of Banke Bihari through Banke Bihari father and guardian.
9. Boy not named (minor) son of Raj Kumar Agrawal Katrs ward no. 2 P.O. and P.S. Bhabua, District-Bhabua.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arabind Nath Pandey
Mr. Alope Kr. Agarwal
For the Respondent/s : Mr. Dhanendra Chaubey
Mr. Satish Kumar



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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

11 18-03-2017 Nobody appears on behalf of the appellants in spite of repeated calls.

From the perusal of the records, it appears that by order dated 22.08.2016, the prayer of the appellants for grant of two weeks final time to file Talbana etc. for issuance of show cause notice upon the heirs of the deceased respondent no. 2 was allowed. The said order was, however, belatedly complied and the office report was submitted that there was deficit court fee of Rs. 45 for the amount of Talbana. On 08.03.2017, the appellants were allowed one week time to file deficit amount of Talbana cost. The said order was again not complied, resulting consequential dismissal for default of the I.A. No. 1402 of 2002 (substitution petition) with regard to the deceased respondent no. 2. The matter has been placed today for consideration of the competency of the present appeal after its dismissal as against the proposed heirs of the deceased respondent no. 2.

From the memo of appeal, it appears that the said respondent no. 2 was one of the defendants who was also appellant in the appellate court below and the present appellants were the plaintiffs in the suit. As such, proceeding further with this



appeal may result in inconsistent orders and conflicting decrees.

This appeal is, therefore, dismissed as incompetent.

(V. Nath, J)

Devendra/-

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