

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.532 of 1998

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1. Ramawati Devi W/o Lalvarti Singh
2. Lal Varti Singh son of Kalpu Singh, All residents of village Sion, Police Station Bhabhua, District Kaimur
3. Mostt. Champa Kuer W/o Late Kalpnath Singh R/o Village - Mokari, P.S. Bhabhua, Distt. Kaimur Appellants

Versus

1. Ram Nath Singh, son of Gokul Singh
2. Indra Devi W/o Ram Nath Singh
3. Onkar Nath Singh
4. Usha Nath Singh
5. Gajendra Nath Singh, All Sons of Ram Nath Singh. All minors under the guardianship of Ram Nath Singh father and guardian All residents of village Sion, Police Station Bhabhua, District Kaimur (Bhabua)
6. Smt. Kushum Lata Pandey D/o Late Ambika Pandey, W/o Laxmi Narayan Pandey of Mohalla Kali Asthan, G.T. Road, Sasaram, at present Village Sion, P.O. + Police Station - Bhabhua, District Kaimur Respondents

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Appearance :

For the Appellants : Mr. Mahesh Prasad 2, Adv.
For the Respondents : M/S Barun Kumar Choudhary, Lalit Narain Jha, Jitendra Kumar Shrivastav & R.Singh, Advs,

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

27 24-07-2017

No one appears on behalf of the appellants.

Mr. Barun Kumar Choudhary, the learned counsel for the respondents is appearing.

Order, dated 22.12.2015, reveals that no one was appearing on behalf of the appellants on that day also.

I.As. No. 4446 and I.A. No. 4447 of 2003 both of the year 2003 were petitions for substitution of the legal heirs of respondent no. 6, Smt. Kusum Lata Pandey. By order, dated 22.12.2015, the appellants were allowed one week's peremptory time to take steps for fresh service of show cause notice to the legal heirs of deceased respondent no. 6 in the substitution matter and limitation matter.



The order was not complied. Hence, both the aforesaid interlocutory applications stood dismissed for non-compliance of the Court's order within time.

Now the office has placed notes, dated 21.07.2017, to decide whether the appeal would abate only against respondent no. 6 or it would abate as a whole.

The record reveals that respondent no. 6, Smt. Kusum Lata Pandey, was one of the defendants in the suit for declaration of title and confirmation of possession. The suit was dismissed and the First Appeal, against the judgment and decree of dismissal, was allowed by the learned lower appellate Court. Apparently, respondent no. 6 was a necessary party, in her absence adjudication is not possible, hence, the appeal would abate as a whole.

Accordingly, it is dismissed as abated.

(Birendra Kumar, J)

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