

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.371 of 1999

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Motiullah Khan		Appellant
Versus		
Zaffarullah Khan & Ors.		Respondents

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Appearance :

For the Appellant :

For the Respondents : M/S B.K.Sinha & K.C.K. Sinha, Advs.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

12 25-07-2017

No one appears on behalf of the appellant.

By order, dated 20.05.2004, four weeks' time was allowed to the appellant to file requisites for fresh service of notices on respondents 1, 5, 7, 9, 10, 11, 13 and 14 through both the processes. The order was peremptory. The same was not complied.

Hence, the appeal was dismissed against the above respondents.

Thereafter, the appellant filed M.J.C. No. 108 of 2005 for restoration of this Appeal, but, the said M.J.C. application was dismissed on 28.06.2017 due to non-compliance of order, dated 21.06.2017, passed in the M.J.C. aforesaid.

The office has submitted notes for consideration of the Court as to whether the Appeal would abate only against the above referred respondents or it would abate as a whole.

The suit was for partition, hence, all the above respondents were necessary party, in absence of those respondents no decree can be passed in this Appeal.

Hence, this Appeal would abate as a whole. Accordingly, it stands dismissed as abated.

(Birendra Kumar, J)

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