

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.725 of 2017**

**In**  
**First Appeal No. 348 of 2003**

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Ratna Devi & Ors

.... .... Petitioner/s

Versus

Janaki Devi & Ors

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Tanuja Kumari (Mishra)

For the Respondent/s : Mr. Sushanta Kumar Das

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN**  
**SHARMA**  
**ORAL ORDER**

3      09-08-2017                      This M.J.C. has been filed for restoration of First Appeal No. 348 of 2003, as the first appeal was abated as a whole and accordingly the appeal was disposed of by order dated 02.09.2016. Earlier interlocutory application was filed which was permitted to be withdrawn for filing M.J.C., the ground taken in restoration application are sufficient to restore this appeal.

On the other hand, the learned counsel for the respondent submits that as the appeal has abated as a whole and, as such, no restoration application is maintainable and against that order appeal will lie.

From perusal of the order dated 02.09.2016, it reveals that as no one was turning up on behalf of the appellants to take steps or substitution of respondent no.3 and in the absence of the appellant this appeal has been treated to be abated as a whole and,



as such, for the ends of justice the appeal is restored to its original file. The appellants shall take step for setting aside the abatement and to substitute the legal heir of respondent no.3.

In the result, First Appeal No. 348 of 2003 is restored to its original file.

**(Jitendra Mohan Sharma, J.)**

Rajiv/-

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