

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.660 of 1974

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L.Rs. of Ram Bilash Singh & Ors

.... Appellant/s

Versus

Jagdish Mahto & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : None

For the Respondent/s : Mr. Rajendra Prasad

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

54 16-07-2018

No one appears on behalf of the appellants.

This appeal has been filed against the judgment and decree dated 26.04.1974 passed by Shri Aditya Narain Chaturvedi, Additional Subordinate Judge, Jehanabad, in T.A. No.55 of 1968/3 of 1974 allowing the appeal and setting aside the judgment and decree dated 02.02.1968 passed by Shri Sohailur Rahman, Additional Munsif, Jehanabad in T.S. No.85 of 1960/25 of 1965.

This appeal has already been dismissed against deceased-respondent No.3 for non-compliance of peremptory order whereby the appellants were directed to file requisite of notices to be sent against the proposed heirs of deceased-respondent No.3. Now the file has been processed for necessary order as to whether the whole appeal would abate or it would abate against deceased-respondent No.3 only.

Plaintiffs' suit was partly decreed. The judgment of



the learned trial Court was reversed by the learned Lower Appellate Court. Hence, this appeal by the plaintiffs. Since the judgment of the learned Lower Appellate Court is in favour of respondent No.3 no decree can be passed in favour of the appellant in absence of the legal heirs of respondent No.3 and there would be chances of conflicting decree to be passed. Hence, the whole appeal would abate.

Accordingly, whole appeal stands abated.

(Birendra Kumar, J)

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