

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.328 of 1978

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Darga Rai & Ors

.... Appellant/s

Versus

Janakdeo Rai & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. S. Mustafi

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

2 06-10-2018 Mr. Amish Kumar, learned advocate informs the Court that the counsel conducting this appeal, namely, Mr. S. Mustafi, died long back and as such no positive statement can be made about the status of this appeal.

Today this appeal has been listed under the heading for orders to ascertain whether this First Appeal is still pending or it has been disposed of.

Learned counsel for the respondent is not sanguine about the pendency of the appeal, as the relevant file has already been taken away by the parties.

During the process of digitilization, the appeal was shown as pending in the digital format, but during the constant physical verification over the last several years, the corresponding record of this appeal could not be traced out.

In the process of physical verification, the Registry has



noticed the discrepancy in the entry made in the digital format and the actual status of the cases and a large number of cases which were shown as pending in the digital format, on physical verification were found to have been disposed of. As the file of this case was not traced out hence the case has been listed today to ascertain authentically whether this case was disposed of or not or it is still pending.

Today while hearing other similar cases listed for orders, the Court appreciating the submission of counsel considering the fact that certain cases are still pending and in certain cases they informed that the case has been disposed of. The court also noticed that certain cases have been transferred to the Jharkhand High Court on account of bifurcation of the State of Bihar in the year 2000. The court has also noticed that due to the undervaluation, the records were sent to the District Courts and in certain cases the First Appeal arising out of land acquisition cases particularly filed by the State of Bihar compromise was made, if the value of the claim is less than Rs. five lacs.

Under the aforesaid circumstances, even there is no corresponding record to ascertain whether the case has been transferred to the Jharkhand High Court or it has been disposed of one way or the other, particularly, when the counsels appearing on behalf on the appellant or the respondent have not made any



submission about the actual status of the case, the Court is prima facie of the view that the case is wrongly shown as pending in the digital format and the case is actually disposed of.

In view of the above, this appeal is treated to have been disposed of. However, treating this appeal as disposed of will not dis-entitle the parties to take steps for revival of this appeal. In the event, the appeal has not been decided, liberty shall be available to the counsel for the parties to file one page affidavit for revival of the First Appeal and also to provide the necessary pleadings, including the memo of appeal and a copy of the judgment of the court below for reconstruction of the appeal.

In the event, such affidavit is filed alongwith the copy of the necessary pleadings, the Registry will reconstruct the file of this appeal and place the same for hearing before the appropriate Bench within a period of two months from the date of reconstruction after filing of such affidavit.

The First Appeal No. 328 of 1978 shall be deemed to have been disposed of.

(Anil Kumar Upadhyay, J)

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