

IN THE HIGH COURT OF JUDICATURE AT PATNA

First Appeal No.208 of 1985

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Awadhesh Dutta Shukla

.... Appellant

Versus

Dinesh Chandra Shukla & Ors.

.... Respondents

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Appearance :

For the Appellant/s : Mr. D.P.Choudhary
Mr. Arjun Prasad Singh
Mr. Bindu Kumari

For the Respondent/s : Mr. Mithilesh Kr. Singh
Mr. Abhay Kr. Singh-1
Mr. .

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

28 16-05-2018 This first appeal is directed against the judgment dated 28.02.1985 passed by 4th Additional District Judge, Siwan whereby and whereunder the suit filed by the respondent Bishambhar Nath Shukla was decreed on contest with cost against the appellant and the learned court below ordered to issue Letters of Administration annexed with the copy of Will in favour of the plaintiff-respondent. The defendant 1st party being the main contesting defendant has filed this appeal against the grant of probate. During the pendency of this appeal, the contesting respondent Bishambhar Nath Shukla died leaving behind his two sons. The legal heirs of deceased respondent were substituted as per order dated 28.02.2009 vide I.A. No.4508 of 2006. The



appellant was directed to file requisites for issuance of fresh appeal notice on substituted respondents as per order dated 22.03.2018. The said order was not complied and the appeal stood dismissed as per peremptory order dated 22.03.2018. The respondent no.2 appears to be formal party. From the impugned judgment, it appears that she filed written statement but in course of her evidence she did not support her case as pleaded in the written statement vide paragraph 24 of the judgment. On account of dismissal of appeal against the contesting respondent, this appeal has become incompetent.

Accordingly, this first appeal is dismissed.

(Sanjay Kumar, J)

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