

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.30 of 1984

=====

Baidyanath Jha & Ors

.... Appellant/s

Versus

Ganesh Narain Chy & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : None

For the Respondent/s : Mr. B.N.P.SINGH

Mr. Surendra Pd. Sharma

Mr. K.K.Shankar

Mr. Subhash Chandra Jha

Mr. Rajib Ranjan Jha

Mr. Kumud Kant Thakur

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

54 08-05-2018

Nobody appeared for the appellants on repeated call.

2. Heard learned counsel for the respondents and perused the record.

3. This appeal has been preferred against the judgment and decree dated 03.09.1982 and 20.09.1982 respectively passed by 2nd Additional Sub-Judge, Samastipur in Partition Suit No. 137 of 1977.

4. The appellants and his three brothers had filed the aforesaid Partition Suit No. 137 of 1977 for declaration of the deed of relinquishment dated 25.04.1920 as illegal, void and inoperative and for partition and allotment of a separate patti to the extent of 6 anna share out of the land mentioned in schedule VI of the plaint. In the said suit, the defendants appeared and on the



petition of plaintiffs and defendants, one Madhvendra Narain Choudhary was appointed as Arbitrator to settle the dispute. The court below fixed 19.12.1981 for submitting Award. The Arbitrator filed his Award in the court below on 10.12.1981 along with all connected papers. Out of three plaintiffs, one Shyam Kishore Jha filed an objection against the Award and prayed to set aside the same on the ground of favouritism on the part of Arbitrator with one of the defendants namely Ganesh Narain Choudhary. The court below after hearing both sides, rejected the objection filed by Shyam Kishore Jha and accepted the Award. The suit was accordingly decreed in terms of Award. Out of three plaintiffs, the present appellants filed the appeal for setting aside the said judgment and decree. During the pendency of this appeal, some of the respondents, i.e., respondent nos. 9, 25, 32 and 36 died and on account of their non-substitution, the appeal stood abated against them.

5. On perusal of Award in question it appears that the Arbitrator was appointed on the petitions of plaintiffs and defendants. The Arbitrator after hearing both sides and considering their claim submitted Award. Both the parties accepted Award and the court below accordingly decreed the suit. None of the respondents raised any objection against the said



judgment. The said Award has been passed on the joint prayer of both the parties and so on account of abatement of appeal with respect to other respondents, this appeal is also become incompetent.

6. Accordingly, this appeal is held abated.

(Sanjay Kumar, J)

Mahesh/-

U			
---	--	--	--

