

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.847 of 1979

State Bank of India, a bank constituted under the State Bank of India Act 1955 having its Central Office at Bombay, a Local Head Office at Patna and branches all over India including one at Sitamarhi, through Branch Manager, State Bank of India, Sitamarhi.

... .. Appellant/s

Versus

1. Sri Bishwanath Prasad, son of Sri Nand Lal Sah, Main Road, P.O. & P.S. Sitamarhi, District- Sitamarhi
2. Sri Nandu Lal Sah, son of Ganga Bishun Sah, Main Road, P.O. & P.S. Sitamarhi, District- Sitamarhi.

... .. Respondent/s

Appearance :

For the Appellant/s : None

For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

37/ 03-01-2019

I. A. No.37 of 2002 has been put up by the office for necessary orders.

None appears on behalf of the appellant.

I. A. No.37 of 2002 has been filed on behalf of the Appellant for substitution of heirs and legal representatives of deceased respondent no.1, who is said to have died on 27.04.1993. Aforesaid application has been filed under Order 22 Rule 4 read with Section 151 of the Code of Civil Procedure on 03.01.2002.

It appears that prior to filing of aforesaid petition by the appellant, I. A. No.4996 of 2001 was filed on behalf of respondents on 12.10.2001 stating that present appeal has abated for non-substitution of heirs and legal representative of deceased



respondent no.1. It has been mentioned in the aforesaid Interlocutory Application that respondent no.1 has died on 27.04.1993 leaving behind his wife, sons and daughter. The appellant had knowledge of death of respondent no.1. In spite of knowledge of the appellant, no step has been taken for substituting the heirs of the deceased respondent no.1. Therefore, this first appeal arising out of money suit has abated in a whole.

This Court finds that after filing of the aforesaid Interlocutory Application, appellant has filed petition under Order 22 Rule 4 read with Section 151 of the Code of Civil Procedure on 03.01.2002 vide I. A. No.37 of 2002.

This Court is of the view that because of non-substitution of heirs and legal representatives of deceased respondent no.1 especially when petition vide I.A. No.4996 of 2001 has already been filed by the respondents that appeal has abated, this appeal has already abated.

Therefore, this First Appeal, which arise out of money suit, is dismissed as having abated.

(Sanjay Priya, J)

J. Alam/-
Rohit Kr.

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