

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.14 of 2002

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MAHADEO MAHARAJ @ BUDHWA MAHAR

... .. Appellant/s

Versus

PALTU SHARMA and ORS

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Anand Kumar Ojha
For the Respondent/s : Mr.Akhouri Vipin Bihari Shrivastava

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

8 01-04-2019 This second appeal is listed under the heading “For Orders (On Office Notes)” whether the appeal shall survive in absence of respondents no. 3 to 5, 8 to 10, 13 and 15 to 17 or abate as a whole?

The plaintiffs are the appellants. Plaintiffs filed the suit for declaration of title and confirmation of possession over the lands mentioned in Schedule B of the plaint and for declaration that the judgment and decree passed in Title Suit No. 74 of 1964 is not binding on them. The trial court held that the suit is barred by the principle of res judicata and the issues have already been decided in Title Suit No.74 of 1964. The appellate court also confirmed the judgment and decree of the trial court and dismissed the appeal.

In this view of the fact, since this appeal has already been dismissed against respondents no.3 to 5, 8 to 10, 13 and 15



to 17 on the same and similar facts, the appeal will not survive on the same facts against other respondents.

Accordingly, the appeal as whole will be abated. This second appeal is dismissed as a whole.

(Prabhat Kumar Jha, J)

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