

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.412 of 2004

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SITA RAM MANDAL and ANR

... .. Appellant/s

Versus

SHIV NARAYAN RISHIDEO and ORS

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Uday Chand Praasad
For the Respondent/s : Mr.Dinesh Pd.Verma

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

12 17-05-2019 The appellants were directed to file substitution petition with limitation, if any, of respondent no.14 who was reported to have died within four weeks peremptory vide order dated 06.03.2019 but the appellants did not file any substitution petition resulting in abatement of the appeal against legal heirs of Bhubneshwari Rishideo, respondent no.14. Now the office placed this record whether the appeal shall proceed further against other respondents in absence of legal heirs of respondent no.14.

The appellants/plaintiffs filed the suit for declaration of title over the lands mentioned in Schedule I and II of the plaint and for declaration that the entry in survey record is illegal. The plaintiffs further sought relief that the land and house of the defendants situated on Schedule II of the land be declared as illegal and the decree of eviction be passed against



the defendants. The suit was dismissed. Appeal also ended in dismissal and affirmation of the judgment and decree passed by the trial court. The plaintiffs thus are appellants. The plaintiffs sought relief against all the defendants for declaration of title over the Schedule I and II of the land and for recovery of possession from the land mentioned in Schedule II of the plaint after evicting the defendants. The judgment is inseparable. If the appeal has already been dismissed against one of the legal heirs of respondent no.14, in order to avoid conflicting and contrary judgments, the appeal as a whole has to be dismissed.

Accordingly, the appeal as a whole is dismissed.

(Prabhat Kumar Jha, J)

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