

**IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.139 of 2010**

AWADH SINGH and ORS.

... .. Appellant/s

Versus

RAJKESHWAR SINGH and ORS.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Abhay Kumar

For the Respondent/s : Mr.Arvind Kumar Singh

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER**

8 21-11-2019

Perused office note.

Office has placed the file under the heading “For Orders(on Office Notes)” for consideration that due to non-compliance of peremptory order dated 04.02.2017 whether this appeal will proceed further in absence of respondent no.2 or not.

The plaintiffs /appellants had filed title suit for partition vide Title Appeal (Partition) No.4/9- 72/6, which was dismissed, confirming the Judgment dated 18th January, 1999 passed in Title Partition Suit no.211 of 1995.

Being aggrieved with the aforesaid Judgment/decreed, the plaintiffs/appellants has filed the present second appeal for partition against the defendants /respondent, in whose favour the suit was decreed.

From perusal of earlier order, it is evident that respondent nos.1 and 2 died during pendency of the appeal and



there is no prayer on behalf of the appellants for substitution of legal heirs of respondent no.1 and only prayer was made for deleting the name of deceased respondent no.1. So far as respondent no.2 Hiramani Devi, who died 30.10.2014, is concerned, notice was issued to her legal heirs vide order dated 04.02.2017, but the same was not complied within specified time, which stood dismissed on 18.02.2017 due to non-compliance of peremptory order.

In view of the facts and circumstances, the second appeal, as a whole, stood dismissed.

(Prabhat Kumar Jha, J.)

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