

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**SECOND APPEAL No.238 of 2005**

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VIJAY KUMAR PRASAD and ORS

... .. Appellant/s

Versus

LAXMAN PRASAD and ORS

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr.Md.Shahnawaz Ali

For the Respondent/s : Mr.Tribhuwan Narayan

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

7      16-05-2019                      The appellants have not yet filed petition for restoration of the instant second appeal, which stood dismissed against respondent nos.2, 3 and 5 to 8. The office sought direction whether this appeal will proceed further in absence of respondent nos.2, 3 and 5 to 8 or abate as a whole.

The plaintiffs are appellants. The plaintiffs filed the suit for declaration of title and recovery of possession, if dispossessed during pendency of the suit. The suit was decreed but the first appellate court allowed the appeal and set aside the judgment and decree passed by the trial court. The present appeal has already been dismissed against respondent nos.2, 3 and 5 to 8. The judgment and decree is inseparable and in order to avoid conflicting and contradictory judgment, the appeal as a whole has to be dismissed.



In this view of the fact, the appeal as a whole stands  
dismissed.

**(Prabhat Kumar Jha, J)**

Harish/-

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