

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.19 of 2009

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BUDHIYA DEVI and ANR

... .. Appellant/s

Versus

VIJAY BIND and ORS

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Kumar Sunil

For the Respondent/s : Mr.Nirmal Kumar Sinha -3

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

8 25-10-2019 This appeal stood dismissed on 27.09.2019 against legal heirs of respondent No.12. The office placed this case whether the appeal shall proceed in absence of proposed legal heirs of respondent No.12.

The plaintiffs filed the suit for declaration of title and confirmation of possession over the land mentioned in Schedule I of the plaint and for declaration of Will No.5922, 5923, 5924 dated 30.06.1986 as null and void and for permanent injunction restraining the defendants from interfering into peaceful possession of the plaintiffs. The suit was dismissed. All the eleven plaintiffs filed Title Appeal No.38 of 2003/55 of 2004. The first appellate court allowed the appeal and decreed the suit and refrained two defendants, who are appellants herein, from interfering into the peaceful possession of the plaintiffs. Respondent No.12-one of the plaintiffs died but his legal heirs



were not substituted and consequently, the appeal against proposed legal heirs of respondent No.12 stood dismissed. The judgment is inseparable as passed in favour of all the plaintiffs and in this view of the fact, to avoid contradictory judgment, the second appeal as a whole has to be dismissed.

Accordingly, the second appeal as a whole is dismissed.

(Prabhat Kumar Jha, J)

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