

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.85 of 2005

MAJEED MIAN

... .. Appellant/s

Versus

KHUDA BAKSH MIAN and ORS

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

8 06-03-2019 Nobody appears.

The office has pointed out that the appeal has already been dismissed for default on 15.02.2018 as against respondent Nos. 3, 5 to 9 and 12 to 13 due to non compliance of peremptory order dated 01.02.2018 and in such circumstance whether this appeal shall proceed in absence of respondent Nos. 3, 5 to 9 and 12 to 13.

From perusal of the judgements of both the courts below, it appears that appellant, Majeed Mian, is the plaintiff. He filed the suit for partition of plot No. 1038, Khata No. 200, area 5 decimal mentioned in schedule of the plaint against the respondents. The suit was decreed. The defendants filed Title Appeal No. 28 of 1999 and the appeal was allowed. The judgement and decree passed by the trial court in Title Suit No. 6 of 1994 was set aside against which the appellant filed this



Second Appeal. The appellant sought relief against all the respondents but on account of non compliance of peremptory order the appeal has already been dismissed on 15.02.2018 against respondent Nos. 3, 5 to 9 and 12 to 13. The judgement is not separable against other respondents.

In this view of the fact, the entire appeal shall abate and, accordingly, this Second Appeal is dismissed.

(Prabhat Kumar Jha, J)

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