

IN THE HIGH COURT OF ORISSA AT CUTTACK

SA No.162 OF 1988

Bibekananda Pradhan

Appellant

-versus-

***Deosingh Sridhar (Since Dead) by
his LR and Others***

Respondents

CORAM:

MR. JUSTICE D.DASH

ORDER

16.08.2022

Order No.

24. 1. This matter is taken up through hybrid arrangement (virtual/physical) mode.
2. None appears for the Appellant in this Appeal of the year 1988 when called. None also appears for Respondents 2 to 5.
3. The perusal of the record reveals that the Appeal has been dismissed as against Respondent No.1(a) by specific order dated 18.08.1998. Respondent No.1(a) is the legal representative of Respondent No.1, who has come on record in view of the death of the Respondent No.1 during pendency of this Appeal. Said original Respondent No.1 was the Defendant before the Trial Court and he being aggrieved by the judgment and decree passed by the learned Munsif, Padampur in T.S. No.13 of 1981, with other Defendants, i.e., Respondents 2 to 5, had carried the First Appeal as the Appellants. The First Appeal has been allowed. The judgment and decree passed by the learned Trial Court being set aside when the Plaintiff's suit has been dismissed; the present Second Appeal has been filed by the Appellant as the unsuccessful Plaintiff.

4. The suit was for a decree of permanent injunction against the Respondents (Defendants 1 to 6) restraining them from not interfering in the possession of the Plaintiff over the suit land. The Respondents 1 to 5 (Defendants 1 to 5) in the said suit had advanced the claim that the property belonged to (Respondent No.6 (Defendants 6) and he was in peaceful possession of the same and he had mortgaged the suit land in favour of Respondent No.1 (Defendant No.1) by executing a deed of mortgage and delivering the possession of the same and thereafter said Gokulananda is said to have transferred the suit land in favour of that Respondent No.1 (Defendant No.1) by executing a registered sale deed in the year 1964. So, the Respondents 1 to 5 (Defendants 1 to 5) claimed to be in peaceful possession of the suit land on their own right, title and interest.

In the above premises when dismissal of the suit as against Respondent No.1(a), one of the legal representatives of Respondent No.1 (Defendant No.1) has attained finality, the present Appeal cannot further proceed against rest of the Respondents (Defendants).

For the aforesaid, the Appeal stands dismissed for non-prosecution and also as to have abated. No order as to cost.

**(D. Dash),
Judge.**