

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**FIRST APPEAL No.513 of 1987**

1. Kapildeo Chaudhary (**Dead**)

1(a) Mohan Chaudhary son of late Kapildeo Chaudhary R/o Puja Bhandar,  
near Gola Road mor. Saraiyaganj, Dist. Muzaffarpur.

... .. Appellant/s

Versus

1. Jainarayan Prasad Chaudhary (**Dead**) son of Shivji Chaudhary resident of  
Bairgania, PO & PS Bairgania, Dist. Sitamarhi at present resident of Mohalla  
Saraiyaganj, PO & PS & Dist. Muzaffarpur

2. Basanti Devi wife of Sri Bhola Chaudhary R/o Mohalla Maripur in the  
town of Muzaffarpur PO & PS & Dist. Muzaffarpur.

3. Sunaina Devi wife of Om Prakash Chaudhary R/O Mohalla Saraiyaganj,  
Ram Lakshman Janki Temple, Muzaffarpur, P.O. & PS & Dist. Muzaffarpur.

4. Smt. Girija Devi wife of Bibhum Chaudhary R/o vill. Chimnapur, P.O.  
Lalganj Dist. Vaishali

5. Smt. Shanti Devi (**Dead**) wife of late Tejnarayan Chaudhary R/o  
Bairgania Dist. Sitamarhi at preent R/o mohalla Saraiyaganj, P.O. & PS &  
Dist. Muazaffarpur.

... Defendant-Respondent No.1

6. Tara Devi widow of late Bhairab Prasad R/o Pipra Bazar, Dist. East  
Champaran D/o Tapsi Chaudhary (**Dead**)

6(i) Manorama Devi (**Dead**)

6(ii) Prema Devi

Both daughters of late Bhairo Prasad R/o Pipra Bazar P.S. Pipra Bazar,  
Dist. East Champaran.

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr. Shambhu Sharan Singh, Adv.

For the Respondent/s : Mr. T. N.Maitin, Sr. Adv.

**CORAM: HONOURABLE MR. JUSTICE KHATIM REZA**  
**ORAL ORDER**

28    22-12-2023                      Heard learned counsel for the appellant and learned  
senior counsel for the respondents.

2. Perused the office notes.

3. As per the office notes, the appeal was dismissed on  
25-02-2014 on the ground of incompetency as the appeal had  
abated against the heirs and legal representatives of deceased



respondent nos.1 & 5.

4. Later on appellant filed MJC No. 890 of 2014 for restoration of the Interlocutory Applications for substitution and vide order dated 16-04-2014, the application also stood rejected for default.

5. The learned counsel for the appellant appeared and shows his inability to press this appeal. He submits that he has no instructions to pursue the matter. The conduct on behalf of the appellant shows that he has lost interest in this appeal.

6. Learned counsel for the respondents submits that the main relief prayed for is only against respondent no.1, namely, Tej Narayan Prasad Choudhary.

7. In such view of the matter as also the fact that since the appeal has already abated vide order dated 25-02-2014 against the heirs and legal representatives of deceased respondent nos. 1 and 5, and as such, the appeal as a whole has become incompetent and cannot proceed any further.

8. Accordingly, the First Appeal stands dismissed.

**(Khatim Reza, J)**

shyambihari/-

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