

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**SECOND APPEAL No.537 of 1994**

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Smt. Sheopati Devi @ Sripati Kuer & Ors.

... .. Appellant/s

Versus

Bidya Bhusan Prasad and Ors

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Uday Shankar Sharan Singh, Adv.  
For the Respondent/s : Mr. Akhileshwar Kr., Adv.

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

23     30-06-2025                      At the very outset, learned counsel for the appellants submits that the appellants have taken away file of the present case from him.

**I.A. No. 06 of 2024**

2. This interlocutory application has been filed by the respondent no. 2(a) to inform the Court about the death of appellant nos. 1 and 2, who have died years ago but till date no step has been taken by the appellants.

3. Learned counsel for the respondents/decreed holder submits that appellant no. 1, namely, Smt. Sheopati Devi died on 04.03.2011 leaving behind one daughter and one son only as her husband had already predeceased her.

4. Learned counsel for the respondents further submits that the heirs of appellant no. 1 are already on record as appellant nos. 2 and 3 and both of them died during pendency of



this appeal.

5. It is submitted that the substitution petition was filed only with regard to appellant no. 3 which was allowed by this Court but no steps for substitution of heirs of appellant no. 2 has been taken by the appellants. The heirs of appellant no. 2 has been mentioned in paragraph no. 3 of the interlocutory application. It is further submitted that copy of the said application has already been served upon the appellants on 03.04.2024 despite that no steps have been taken by the appellants.

6. Learned counsel for the appellants submits that he has no instruction from the appellants because the file of the present Second Appeal has already been taken by them.

7. Considering the aforesaid facts and averments made in the interlocutory application, this Court is of the view that the present Second Appeal has abated against respondent no. 2.

8. Since this appeal has abated against one of the heirs of tenant, the whole appeal has become incompetent.

9. Accordingly, I.A. No. 06 of 2024 is allowed and the Second Appeal is dismissed as abated.

**Re: I.A. No. 07 of 2025**



10. This interlocutory application has been filed for issuance of appropriate direction to the appellants for depositing the arrears of rent as well as current rent with interest at the rate of 18 percent per annum.

11. Since the appeal has abated as a whole, I.A. No. 07 of 2025 is dismissed having become infructuous.

**(Khatim Reza, J)**

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