

(1938) 01 PAT CK 0002
In the Patna High Court

Mt. Sumitra Kuer and Others

APPELLANT

Vs

Sitamarhi Sugar Works Ltd. and Others

RESPONDENT

Date of Decision : 25-01-1938

Acts Referred:

Citation : AIR 1938 Patna 287

Hon'ble Judges : Courtney-Terrell, C.J.;James, J

Bench : Full Bench

Judgement

Courtney-Terrell, C.J.—This is a Letters Patent Appeal from a decision of Wort, J. sitting singly in his original juris, diction in the matter of the winding up of a company.

2. The application before the learned Judge was for an order for the balance of contributions from the deceased father of the appellants for shares, who died while the application was pending. He had applied for 500 shares and had been placed on the list of contributories, and the simple point of fact was as to whether he ceased to be a contributory and had forfeited the deposit that he had made upon application so as to escape from the position of a contributory with future liability.

3. It was contended by his heirs that he had in fact called upon the Managing Director of the company and said that he wished to have nothing more to do with the affairs of the company and that his shares were then forfeited. The evidence upon which this allegation was based was of the most meagre description, and I see no reason to differ from the judgment of Wort, J. that the story is in fact untrue and has not been established by the applicant.

4. A further point was raised that the heirs had not been substituted within 90 days of the death of the deceased, but the Limitation Act does not apply at all. The matter of liability of the legal representatives is governed by Section 160 of the Act itself and on the death of the member, the liability automatically falls upon the representatives.

5. These are the only points that arise in connexion with the appeal and they are very easily decided.

6. I would therefore dismiss the Letters Patent Appeal with costs: hearing fee three gold mohurs.

James, J.

I agree.