

(1923) 07 PAT CK 0007
In the Patna High Court

Phulwati Kumari

APPELLANT

Vs

Maharaj Kumar Deo Maheshwari Prasad Singh and Others

RESPONDENT

Date of Decision : 30-07-1923

Acts Referred:

Citation : AIR 1924 Patna 607

Hon'ble Judges : Macpherson, J;Das, J

Bench : Full Bench

Judgement

Das, J.—This is an application for setting aside an abatement. It appears that respondent No. 6 died sometime (sic) August, 1922 and the application for setting aside (sic) was not made till 1-3-1923. The petitioner states that she had no knowledge of the death of the respondent till the 20th December, 1922, that is to say, till the notices of the appeal were issued on the respondent and the peon went out to serve the notices.

2. Under a very loose practice which has grown up in this Court no care whatever is taken to specify the grounds on which an application for setting aside an abatement is made. The Code makes it obligatory on an appellant, to keep himself informed of any devolution of interest that may take place by reason of the death of any of the respondents, and it is, in my opinion, not sufficient merely to say that the applicant had no knowledge of the death of the respondent till many months after such death. It must be remembered that the abatement of an appeal gives a very important right to the person or his heirs against whom the appeal abates and it is not without sufficient reason that the Court should set aside an abatement. So far as I am concerned, I shall require very strong grounds to induce me to set aside an abatement and shall pay not the slightest attention to a mere assertion that the applicant had no knowledge of the death of the respondent unless some reasons are assigned why the applicant did not keep, himself informed of the death of the respondent.

3. So far as this application is concerned, it is not opposed and it appears that the applicant is a pardanashin lady. We allow the application and set aside the

abatement in this case, but we must make it perfectly clear to the profession that we shall not entertain any application for setting aside an abatement unless good grounds are shown in support of such an application.

Macpherson, J.

4. I agree.