

ITEM NO.103

COURT NO.6

SECTION XVI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 850 OF 2004

MOST ANNAPURNA DEVI

Appellant (s)

VERSUS

SARAWATIA DEVI & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T.,substitution of L.Rs
of the deceased respondent and office report)

Date: 19/01/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s) Mr. Dalip Kumar Malhotra,Adv.
Mr. Rajesh Kr. Malhotra, Adv.

For Respondent(s) Mr. Rajesh R.Dubey, Adv.for
Ms. Sharmila Upadhyay,Adv.

Mr.Gaurav Agrawal ,Adv

UPON hearing counsel the Court made the following
O R D E R

The Application for substitution is allowed.

The Appeal is allowed in terms of the signed order.
No costs.

(Parveen Kr. Chawla)
Court Master

(Indu Satija)
Court Master

[signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 850 OF 2004

Most Annapurna Devi

..Appellant

versus

Sarawatia Devi & Others

..Respondents

O R D E R

Heard learned counsel for the parties.

The Application for Substitution is allowed.

This Appeal has been filed against the impugned judgment and order dated 08th October, 2002 passed by the High Court of Patna in Misc. Appeal No. 195 of 2001.

The appellant is a blind lady of about eighty years of age. She had filed a suit for declaration of title in which an order dated 20th March, 2001 was passed by the trial Court abating the whole suit. The Miscellaneous Appeal against that order has been dismissed by the High Court.

On the facts of the case, we are of the opinion that the abatement should have been set aside by the High Court.

Hence, we allow this appeal, set aside the order of the High Court dated 08th October, 2002, and also the order of the trial Court dated 20th March, 2001, and set aside the abatement, and restore the suit on the file of the trial Court. The trial Court shall now proceed with the suit and decide

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the same in accordance with law, on its own merits, expeditiously. No costs.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
JANUARY 19, 2011

.....J.
[GYAN SUDHA MISRA]