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C.A.No. 5150-5151 OF 2001
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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A.NOS.2-3 IN

CIVIL APPEAL NOS.5150-5051 OF 2001@@
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(Arising out of S.L.P.(Civil) Nos.20370-20371/2000)

Khetra Mohan Nayak & Anr.Appellants

versus

Prahallad Nayak & OthersRespondents

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Leave granted.

It is not disputed that respondent No.2 Shreemati Rangalata Dei died during the pendency of the writ petition before the High Court. No steps whatsoever had been taken by the writ petitioner before the High Court for her substitution. Consequently, the writ had abated. However, this fact was not brought to the notice of the High Court and the High Court decided the matter on merits. Since the heirs of the deceased respondents were not substituted, we are of the view that the writ petition before the High Court had abated. We accordingly set aside the order under challenge and send the matter back to the High Court. Before the High Court, it is open to the appellants to move an application for substitution. If it is filed, the same shall be dealt with in accordance with law.

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With the aforesaid observations, I.A.Nos.2-3 and the appeals stand disposed of. No Costs.

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.....J.
(V.N. KHARE)

New Delhi,
August 06, 2001

.....J.
(B.N. AGRAWAL)