

Misc Case (Arbitration) No.34 of 2020
C.N.R. No. WBJP01-002800-2020

Order No.40, dated – 05.01.2026.

Today is fixed for hearing of both the applications dated 24.06.2024 and 06.05.2025.

Hazira has been filed on behalf of the petitioner and the respondents through their respective Ld. Advocate.

Ld. G.P. is present on behalf of the proforma respondent No.5/ State.

Upon perusal of the record, it appears to this court that another petition has been filed on behalf of the contesting respondents on 21.03.2025 for substitution on the death of respondent No.3, Krishnakanta Sarkar. Let this application be also taken up for hearing along with aforesaid two pending applications.

Both the applications dated 24.06.2024 and 06.05.2025 are taken up for consideration.

It is a case of the petitioner that the respondent No.3 Krishnakanta Sarkar has already died on 28.12.2024 leaving behind his legal representatives, wife Gita Sarkar, daughter / Kalpana Mallick, sons Chaitanya Deb Sarkar, Nityananda Sarkar and Premananda Sarkar and they may be substituted in place and stead of respondent No.3, Krishnakanta Sarkar and having no adverse claim against each other, substitution may be considered and allowed and necessary order may be passed.

Ld. Advocate on behalf of the contesting respondents has submitted that already in Misc Case No.80/2022 substitution has been allowed and already legal representatives of Krishnakanta Sarkar have been incorporated as substituted respondents in place and stead of Krishna Kanta Sarkar. However, he has submitted for passing necessary order.

Ld. G.P. for the contesting respondent No.5 has submitted for passing necessary order by disposing of those pending applications. However, he has submitted that death certificate should have been placed for perusal of the court to come to a conclusion about death of the deceased Krishnakanta Sarkar enabling to pass necessary order for substitution.

Upon perusal of the petition dated 24.06.2024 and after going through the record and considering the submission of the Ld. Advocate for the respective sides and the Ld. G.P. for the State, it appears to this court that already in Misc Case No.80/2022 substitution has been effected on the death of Krishnakanta Sarkar since deceased therein, though death certificate has not been filed on behalf of respondent Nos.1, 2 and 4 herein but with that order dated 09.06.2025 vide order No.30 passed by the Predecessor of this Court in Misc Case No.80/2022 whereunder substitution has already been allowed giving effect to the present application dated 24.06.2024 which may be disposed of by allowing the prayer for substitution on the death of respondent No.3, Krishnakanta Sarkar since deceased.

In view of that, other pending petition filed on behalf of the petitioner /NHAJ dated 06.05.2025 appears to be infructuous and both the applications be disposed of with a direction to the office to give report on the cause title of the instant Misc Case.

Petitioner is also directed to file amended copy of the application under sec.35 of the Arbitration and Conciliation Act, 1996 on the next date.

So far other pending application as filed on behalf of the respondent Nos.1, 2 & 4 appears to be infructuous in view of the order and the same is disposed of accordingly.

Next date be fixed for hearing of the Misc Case No.34/2020 and compliance on the part of the petitioner in the mean time.

Fix **21.02.2026** for hearing of the Misc Case No.34/2020 and compliance on the part of the petitioner in the mean time.

Dictated & Corrected by me

District Judge, Jalpaiguri
(WB01135)

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