

Misc Case 2048 of 2024

Present: Sri Subhash Kumar Kar, Judge, Bench-V (WB00592)

Order No. 40// Dated 20.09.2025

Petitioner files hazira.

Date is fixed for hearing of the Misc Case.

Heard the Ld. Advocate of the petitioner.

This is an application under Order 22 Rule 9 of C.P.C filed by the petitioner M/s. Karnani Properties Ltd for setting aside abatement with respect to the counter claim of the petitioner made in Title Suit being no. 723 of 2017 on the premises that one Hena Mitra, plaintiff of the T.S no. 723 of 2017 died on 27.01.2024 which was informed by the Ld. Advocate of the deceased plaintiff on 05.04.2024 and a direction was given to take steps for substitution if the right to sue survives and the petitioner being the defendant filed a counter claim in the said suit and it gives an independent right to the defendant to file an application for substitution after setting aside of the abatement.

On perusal of the record, it appears that O.P no. 1 and 2 did not appear despite receipt of the summons.

On further perusal of the record it appears that an information was given by the Ld. Advocate of the plaintiff that plaintiff died on 27.01.2024 though no copy of death certificate is filed on record and since the petitioner has raised a counter claim in the said suit, it will cause prejudice to the petitioner if the abatement is not set aside.

Hence, it is

ORDERED

that the present Misc Case being no. 2048 of 2024 is allowed ex-parte, but without any cost and the abatement of the Title suit no. 723 of 2017 in respect of the counter claim stands set aside and the leave is

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granted to the petitioner to substitute the heirs of Hena Mitra the deceased plaintiff as per schedule of the petition.

Thus this Misc Case stands disposed of.

D/c by me,

Judge.

Judge, Bench-V,
City Civil Court, Calcutta.

Misc Case 2046 of 2024

Present: Sri Subhash Kumar Kar, Judge, Bench-V (WB00592)

Order No. 41// Dated 20.09.2025

In view of the order passed in Misc Case 2048 of 2024 the instant Misc Case stands dismissed being infructuous.

D/c by me,

Judge.

Judge, Bench-V,
City Civil Court, Calcutta.

Title Suit 723 of 2017

Present: Sri Subhash Kumar Kar, Judge, Bench-V (WB00592)

Order No. 42// Dated 20.09.2025

In view of the order no.40 dated 20.09.2025 passed in Misc Case 2048 of 2024 that the counter claim stands restored to its original file.

Defendant no.1 is directed to file the amended copy of the counter claim after substitution of the legal heirs of the deceased plaintiff along with requisites for service notice upon the substituted plaintiff.

Fix 19.11.2025 for filing amended copy of the counter claim along with requisites.

D/c by me,

Judge.

Judge, Bench-V,
City Civil Court, Calcutta.