

Ej. Ex. Case No. 52 of 2018
CIS No. WBPS01-000385-2018

Order No. 44
06.08.2025

Today is fixed for consideration of the petition filed by the decree holder under Order 21, Rule-16 r/w Section 151 of the CPC.

Decree holder is present by filing hazira.

At the outset, it is pertinent to mention that the provisions of order 21, Rule-16 of the CPC is not applicable in case of the death of judgment debtor but since the contents of the application is otherwise, hence without going into the technicality, the above application is taken as the application for substitution of the deceased judgment debtor. Having heard, perused and considering the submission of the Ld. Advocate for the decree holder, it appears that the decree have been passed against the judgment debtor namely Prativa Bandopadhyay and accordingly this execution proceeding have been initiated to execute the decree. The decree holder now submits that the above Prativa Bandopadhyay has already expired and his son Biswanath Banerjee be substituted in place of the deceased.

It appears that in the meantime, there was an appeal pending against the said decree filed by Biswanath Banerjee, son of Prativa Bandopadhyay and vide order dated 05.05.2025 the Ld. Judge, Bench 9th, City Civil Court, Calcutta has been pleased to dismiss the appeal for default.

In view of the above, let the deceased judgment debtor be substituted by Biswajit Banerjee.

The tabular form already filed by the decree holder along with the application is prematured as filed before the hearing of the application for order, hence rejected.

The decree holder is directed to file the amended tabular form incorporating the name of the substituted judgment debtor in the meantime.

Let the notice be issued upon the substituted judgment debtor in view of Order 21, Rule 22(b) of the CPC.

Requisites at once.

Fixing 10.09.2025 for S/R and A/D.

Dictated and corrected by me:

Judge

Glady Bomjan
(J.O. Code: 01039)
Judge, 3rd Bench
Presidency Small Cause Court,
Calcutta