

EJ Execution 66 of 2024
WBPS01-000266-2024

Order no. 25
Dated 19-02-2026

Today is fixed for hearing of the petition under order 22 rule 3 of CPC filed by the decree holder on 18.12.2025.

Parties have filed their respective haziras.

The petition under order 22 rule 3 is taken up for hearing.

Heard. Perused. Considered.

It appears that the decree holder Jayanta Saha expired on 13/11/2025 leaving behind his widow namely Shibani Saha, two daughters Anushka Saha and Kornika Saha and son Jyotirmoy Saha. Thus the petitioners pray that they may brought on record and the name of the deceased decree holder be struck off.

Xerox notarized copy of the death certificate has also been filed.

At the foremost it is pertinent to mention here that the rules regarding the abatement of suits do not apply to execution proceedings in view of Order 22 Rule 12 of the CPC. Further the mere quoting or misquoting of a provision does not make the petition liable to be rejected in toto. What matters is the contents of the application. The decree holder no.1 has expired leaving behind his wife and children, hence there is no impediment in allowing the prayer of the petitioners.

Accordingly the application filed under order 22 rule 3 CPC is allowed on contest.

The name of the deceased decree holder no.3 Jayanta Saha be struck off from the execution proceeding and the names of his legal heirs, namely Shibani Saha, Anushka Saha, Kornika Saha and Jyotirmoy Saha be recorded as decree holders.

Relevant changes may be noted accordingly.

To **07.04.2026** for filing amended tabular form.

Dictated and corrected by me:

Judge

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

Calcutta