

SA-191 of 1998
SA-192 of 1998

01.05.2024
Item no.03+04
Court No.50

Smt. Gita Rani Ghosh & Ors.
Vs.
Niranjan Adhikary

Ld. Advocate Ms. Debarati Sen (Bose) appears for appellant.

Ld. Counsel for the appellant submits that two applications have already been filed after the death of the deceased Gita Rani Ghosh and Mahamaya Ghosh.

Perused the office report dated 30.04.2024.

It transpires from the office report that two CAN applications have been filed being CAN 05/2024 and CAN 06/2024 dated 28.03.2024 owing to demise of appellant no. 4(a) Mahamaya Ghosh, who died intestate on 28.12.2023 and appellant no. 1 Gita Rani Ghosh who died intestate on 29.04.2023.

It is reported that appellant no. 4(a) died leaving behind her legal heirs who are already on record as appellant nos. 4(b) to 4(d) and deletion of the appellant no. 4(a) is required. Again it is reported that appellant no. 1 died intestate leaving behind her legal heirs who are already on record as appellant nos. 2 and 3 and accordingly, the deletion of appellant no. 1 is required.

In view of the above, it is apparent that all the legal heirs of appellant no. 1 and appellant no. 4(a) are already on record in terms of the office report.

Accordingly, the name of the deceased appellant no. 1 and appellant no. 4(a) be deleted. The department is directed to proceed in accordance with law.

It further transpires from the office report that postal notices were issued upon respondent no. 2(b)-2(f) vide memo dated 19.10.2015 and as per the report the postal article issued upon respondent nos. 2(b), 2(c) and 2(d) have been returned with 'endorsement refused' and postal notice issued upon respondent no. 2(e) has been returned with endorsement 'insufficient address' and the notice issued upon respondent no. 2(f) could not be delivered as the endorsement shows 'not known'.

Thus, it is evident that the notice issued upon respondent nos. 2(b), 2(c) and 2(d) is complete. But, in respect of notice issued upon respondent nos. 2(e) and 2(f), fresh notice are required to be served.

Hence, the Ld. Advocate for the appellant is hereby directed to put fresh requisites for service of notice of appeal upon respondent nos. 2(e) and 2(f) through speed post with A.D with present and proper address within two weeks from date positively.

It is further reported that on re-examination of the Trial Court Record received from the Ld. Trial court in connection with Title Appeal no. 444/89, Title Appeal no. 431/89, Title Suit no. 229/78, Title Suit no. 226/78 and Title Suit no. 230/78 it is found that certified copies of Exhibit 2 and 3 are present in T.C.R as the original documents were taken back by the Ld. Advocate on 23.11.1979 and original documents being no. Exhibit A and Exhibit G were taken back by the Ld. Advocate by replacing them with the certified copies of the same.

It is also reported that the other documents are in order.

Since, the certified copies of the original documents are already on record, the T.C.R is found to be complete. The department is accordingly directed to proceed in accordance with law.

(Nabanita Ray)
Registrar Administration (L&OM)