

18.09.2025
Sl. 23, 24 &25
subadip
Ct.No.-655

SA 427 of 1997

**Niranjan Adhikary
Vs.
Amiya Ghosh & Ors.**

With

**SA 191 of 1998
CAN 7 of 2025
Amiya Ghosh @Amiya Kumar Ghosh & Ors.
Vs.
Niranjan Adhikary & Ors.**

With

**SA 192 of 1998
Smt. Gita Rani Ghosh & Ors.
Vs
Niranjan Adhikary**

Mr. Joyak Kumar Gupta,

...for the Appellant
(in SA 427 of 1997)

Mr. Bhaskar Ghosh, Sr. Adv.
Ms. Debarati Sen (Bose),

...for the appellants
(in SA 191 of 1998 & SA 192 of 1998)

Mr. Joyak Kumar Gupta

...for Respondent no. 1

In Ref: CAN 7 of 2025

1. This is an application filed on behalf of the appellants seeking for dispensation of service of notice upon the respondent nos. 2(e), 2(f), 4(d), 5(f) 5(g), 9(b), 9(c), 9(d) and 9(f) respectively in the instant appeal.

2. Both the parties are represented by the learned Advocate for the parties.

3. It has been urged by the learned advocate appearing on behalf of the appellant that respondent nos. 2(e), 2(f), 4(d), 5(f), 5(g), 9(b), 9(c), 9(d) and 9(f) have been impleaded in the present appeal as the legal representatives of the original defendant nos. 2, 4, 5 and 6. It is, however, an undisputed fact that the said defendants did not enter appearance or contest the suit before the learned Trial Court. The office report further indicates that notices have already been issued upon the aforesaid respondents. In this context, learned counsel for the appellant has drawn the attention of this Court to a supplementary affidavit filed on record, wherein it has been specifically stated that the said respondents are also parties in another connected appeal which is being heard analogously along with the present matter, and in that proceeding notices have already been duly served upon them.

4. Therefore, it has been contended on behalf of the appellant that service of notice upon the said respondents in the present appeal should be treated as complete, inasmuch as they have already been duly served in the connected appeal.

5. It is evident that the original defendant nos. 2, 4, 5 and 6 did not contest the suit before the Trial Court. It further appears from the record that respondent nos. 2(e), 2(f), 4(d), 5(f), 5(g), 9(b), 9(c), 9(d) and 9(f) are the heirs and legal representatives of the said defendant nos. 2, 4, 5 and 6, who had chosen not to contest the proceeding at the trial stage. It is said that since their predecessors-in-interest remained ex parte before the Trial Court, the said respondents stand on the same footing and their participation at the appellate stage is not essential for a proper adjudication of the appeal.

6. Accordingly, it is directed that the service of notices upon respondent nos. 2(e), 2(f), 4(d), 5(f), 5(g), 9(b), 9(c), 9(d) and 9(f) shall stand dispensed with. It is, however, clarified that such dispensation is granted purely at the risk of the appellants.

7. Accordingly, CAN 7/2025 is **allowed**.

8. Department is directed to tag the paper book with the record immediately.

9. Let the matter appear in the list on 10th November, 2025.

(Prasenjit Biswas, J.)