

10.08.2026
Sl. No. 125
AMR
Ct.No. 655

**SA 451 of 1991
with
IA No: CAN/5/2026, CAN/6/2026**

**Smt. Lakshibala Garai & Anr.
Vs.
Sri Biswanath Ghosh**

Mr. Bhaskar Ghosh
Mr. Rwitendra Banerjee
Mr. R. Bose

....for the Appellants

Mr. Sandip Ghosh
Mr. Partha Sarkar

...for the Respondent nos. 1(a)(i) and 1(a)(ii)

In Re.: CAN/5/2026

1. Both the parties are represented.
2. This is an application seeking substitution of the heirs/legal representatives of the deceased respondent No. 1(a)(ii), Anil Ghosh, who died intestate on 11th May, 2021, leaving behind his heirs/legal representatives as disclosed in paragraph 2 of the application.
3. It is stated in the application that, when the matter was taken up for hearing on 17th September, 2025, the learned Advocate appearing for the respondent, for the first time, informed the Court that the respondent No. 1(a)(ii), Anil Ghosh, had already expired. Upon such disclosure, liberty was granted to the appellants to take appropriate steps in respect of the deceased respondent. Pursuant

thereto, the present application has been filed seeking substitution of the heirs/legal representatives of the deceased respondent.

4. Upon perusal of the averments made in the application and the materials placed on record, it appears that the persons sought to be brought on record as heirs/legal representatives of the deceased respondent are all major and *sui juris*. It is further stated that the right to sue survives in favour of the said heirs/legal representatives. There is also no material before this Court to suggest that the proposed legal representatives are not entitled to represent the estate of the deceased respondent in the present proceeding.

5. Having regard to the facts and circumstances of the case and the explanation furnished for the delay in taking steps for substitution, this Court is satisfied that sufficient cause has been shown for condoning the delay in filing the present application. The delay is, accordingly, condoned. There appears to be no impediment in allowing the prayer for substitution.

6. Accordingly, the instant application seeking substitution of the heirs/legal representatives of the deceased respondent No. 1(a)(ii), Anil Ghosh, is allowed, after condoning the delay in filing the same. The heirs/legal representatives of the said deceased respondent, as described in the application, shall accordingly be brought on record in place and stead of the deceased respondent No. 1(a)(ii).

7. The department is directed to take necessary consequential steps for incorporating the names and particulars of the substituted heirs/legal representatives of the deceased respondent No. 1(a)(ii) in the cause title of the Memorandum of Appeal.

8. The application, being CAN 5 of 2026 is hereby **allowed** and disposed of.

In Re.: CAN/6/2026

9. This is an application filed on behalf of the appellants seeking substitution of the heirs/legal representatives of the deceased respondent No. 1(a)(i), Hriday Gopal Ghosh, who died intestate on 6th October, 2020 during pendency of the present appeal, leaving behind his heirs/legal representatives. The names and particulars of the said heirs/legal representatives have been set out in paragraph 2 of the application.

10. Learned Advocate appearing for the appellants submits that the appellants came to know about the death of the respondent No. 1(a)(i), Hriday Gopal Ghosh, only on 17th September, 2025, when the matter was taken up before this Court. Immediately upon acquiring such knowledge, the appellants took steps for bringing the heirs/legal representatives of the deceased respondent on record. It is, therefore, submitted that there was no deliberate or intentional laches or negligence on the part of the appellants in taking steps for substitution. On such premise, learned Advocate prays that the delay occasioned

in filing the present application may be condoned and the prayer for substitution may be allowed.

11. I have considered the averments made in the application and the submissions advanced on behalf of the appellants.

12. The explanation furnished for the delay in taking steps appears to be satisfactory. It appears that the appellants took steps within a reasonable time after acquiring knowledge of the death of the deceased respondent. There is nothing on record to indicate that the delay was deliberate or attributable to any willful negligence on the part of the appellants. In the circumstances, sufficient cause has been shown for condoning the delay, and there appears to be no impediment in allowing the prayer for substitution.

13. Accordingly, the delay in filing the present application is hereby condoned and the application seeking substitution of the heirs/legal representatives of the deceased respondent No. 1(a)(i), Hriday Gopal Ghosh, is allowed.

14. The heirs/legal representatives of the deceased respondent No. 1(a)(i), whose names and particulars have been set out in paragraph 2 of the application, shall accordingly be brought on record in place and stead of the deceased respondent No. 1(a)(i), Hriday Gopal Ghosh.

15. The department is directed to take necessary consequential steps for incorporating the names and particulars of the substituted heirs/legal representatives in

the cause title of the Memorandum of Appeal in place and
stead of the deceased respondent No. 1(a)(i).

16. The application being CAN 6 of 2026 is hereby
allowed and disposed of.

In Re: SA 451 of 1991

17. It is said by the learned advocate for the appellants,
the paper book shall be handed over to the learned
advocate for the respondent by tomorrow. The case is
ready for hearing.

18. List the matter on **27th August, 2026**.

(Prasenjit Biswas, J.)