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2025

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WPA 4698 of 2021  
with  
CAN 1 of 2022

Sk. Akib Hasan  
Vs.  
The State of West Bengal & Ors.  
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Mr. Keshab Chandra Das  
... for the petitioner

Mr. Vivekananda Bose  
Ms. Deboleena Ghosh  
... for the State

In Re : CAN 1 of 2022

This is an application for substitution.

Mr. Das, learned Advocate appearing for the petitioner, submits that during the pendency of the present writ petition, the private respondent no. 7 has expired, leaving behind legal heirs, the particulars of whom are detailed in paragraph 3 of this application. He further submits that, in the interest of justice, those legal heirs need to be brought on record.

Mr. Bose, learned Advocate appearing for the State, submits that before any decision is taken regarding the substitution of legal heirs in place of respondent no. 7, it is necessary to examine whether the right to sue survives against the legal heirs of the said respondent.

Heard the learned Advocates appearing for the

respective parties and perused the averments made in the application.

Respondent no. 7 happened to be the grandfather of the petitioner. Out of love and affection, he had executed a deed of gift in favour of the petitioner. Subsequently, respondent no. 7 preferred an application before respondent no. 3, stating that the gift deed was executed in favour of the petitioner with the expectation that the petitioner would look after and maintain him during his old age. However, as the petitioner allegedly failed to discharge that obligation, respondent no. 7 submitted the said application.

Based on that application, the deed of gift was cancelled by the Maintenance Tribunal and the Sub-Divisional Officer, Sadar, Hooghly. Therefore, if the cancellation of the gift deed is upheld, the legal heirs of respondent no. 7 would stand to benefit, and conversely, if the order cancelling the deed is set aside, the legal heirs of respondent no. 7 would be seriously prejudiced.

Accordingly, the right to sue survives against the legal heirs of respondent no. 7. Considering this aspect, the application for substitution being CAN 1 of 2022 is allowed.

Let the legal heirs, as detailed in paragraph 3 of this application, be substituted in place of respondent no. 7, since deceased.

Office is directed to make necessary correction and/or amendment in the cause title of the present writ

petition.

In Re : WPA 4698 of 2021

The petitioner is directed to serve a copy of the amended writ petition, along with all annexures thereto, upon the substituted legal heirs of respondent no. 7, together with a notice intimating that the matter shall be taken up for further consideration on 17th November, 2025. The petitioner is further directed to serve a copy of the amended writ petition upon the State as well.

Let this matter appear on 17<sup>th</sup> November, 2025.

**(Partha Sarathi Chatterjee, J.)**