

19<sup>th</sup> May,  
2026  
(AK)  
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**SAT 78 of 2026**

**IA No: CAN 1 of 2026**

Dr. Siddhartha Mukherjee and others  
Vs.  
Smt. Shipra Roy and others

Mr. Aniruddha Chatterjee, Snr. Adv.  
Mr. Sounak Mukherjee  
Mr. Debrup Choudhury

....For the appellants.

1. Learned senior counsel appearing for the appellants, at the outset, submits that Tuli Ghosh, who was a party to the litigation from which the present appeal arises, has expired after passing of the impugned judgment and decree but before preferring the present appeal.
2. Accordingly, her heirs and legal representatives have been impleaded as parties to the present appeal.
3. However, it has not been indicated in the memorandum of the appeal or the connected application that the said Tuli Ghosh has died in the meantime.
4. Accordingly, on the prayer of learned senior counsel, leave is granted to the learned Advocate-

on-record for the appellants to carry out the necessary corrections to the cause titles of the memorandum of appeal and the application, by incorporating the name of the deceased Tuli Ghosh and by indicating further that she has died in the interregnum and that her heirs are already on record, indicating the serial numbers of the said heirs in the cause title.

5. Such corrections shall be carried out during the course of the day.
6. On verbal prayer, we grant leave to the appellants to prefer the appeal against the heirs and legal representatives of the said deceased Tuli Ghosh as well.
7. This takes care of the first defect in the appeal.
8. As to the defect regarding no Power of Attorney having been filed with the appeal, an original Power of Attorney is now filed in court which is kept on record, to be tagged with the main file.
9. Hence, the said defect also stands cured.
10. Regarding the third defect pointed out by the Additional Stamp Reporter, the impugned decree has to be sent down to the trial court for necessary corrections.
11. The office shall take steps accordingly.

12. This appeal will be heard on the following substantial questions of law:

*(i) Whether the learned First Appellate Court substantially erred in law in reversing the decision of the Trial Court, whereby an eviction decree was granted in favour of the plaintiffs/appellants, in view of the plaintiffs/appellants having categorically averred nuisance on the part of the defendants which is also one of the grounds for eviction recognized under the West Bengal Premises Tenancy Act, 1997, merely by proceeding to disbelieve the other alternative ground that the defendants are no longer tenants by operation of Section 2(g) of the said Act.*

*(ii) Whether the learned First Appellate Court, being the last court of facts, prior to reversing the decision of the Trial Court, ought to have considered whether the plaintiffs/appellants have otherwise been able to establish the ground of nuisance under Section 6 of the West Bengal Premises Tenancy Act, 1997.*

13. CAN 1 of 2026 is an application for stay of operation of the impugned judgment and decree. However, the effect of grant of stay of the Appellate

Court's decree would be to revive the Trial Court's decree granting eviction against the defendants/respondents, which would tantamount to allowing the second appeal prior to the same being decided finally. Thus the prayer for stay cannot be granted.

14. Accordingly, CAN 1 of 2026 is dismissed without any order as to costs.
15. The appellants shall put in postal costs and requisites for service of notice of the appeal on the defendants/respondents within June 12, 2026.
16. The Trial Court records shall be brought by special messenger at the cost of the appellants, also to be deposited by June 12, 2026.
17. The appellants shall prepare and file the requisite number of informal paper books without comparing with the records within six weeks from the date of service of notice of arrival of the trial court records on the learned Advocate for the appellants.
18. Liberty to the parties to mention the appeal for enlistment before the appropriate learned Single Judge then having determination, as and when the same is ready for hearing.

**(Sabyasachi Bhattacharyya, J.)**

**(Biswaroop Chowdhury, J.)**