



22.05.2025
SI No.5
Court No.8
(gc)

**FA 138 of 2017
CAN 4 of 2023
CAN 5 of 2023
CAN 6 of 2025**

**Banaful Sett
Vs.
Tapan Kumar Dey & Anr.**

Mr. Dibashis Basu,
Mr. Arun Bandyopadhyay
... for the Appellant.

**Re: CAN 4 of 2023
With
CAN 5 of 2023
With
CAN 6 of 2025**

1. In spite of service, the respondents proposed to be substituted are not represented.
2. Affidavit-of-service is kept with the record.
3. The applications for restoration, being CAN 4 of 2023, condonation of delay, being CAN 5 of 2023 and substitution, being CAN 6 of 2025 are taken up together.
4. Sufficient cause being shown for non-appearance on 8th March, 2022 when the appeal was dismissed for default.
5. We are satisfied with the explanation offered for not being able to file the application for restoration within the period of limitation.
6. The order dated 8th March, 2022 is recalled by condoning the delay of 530 days.
7. Moreover, the application for recalling and condonation of delay are not being opposed by



the respondents as it has been clearly mentioned in the order dated 2nd May, 2025, that in the event the respondents are not represented on the adjourned date, we may dispose of the applications by holding that the respondents have no objection in the event the applications are allowed.

8. The appeal is restored to its original file and number.
9. This is an application, being CAN 6 of 2025, for substitution. Smt. Moumita Dutta died during the pendency of the appeal that had necessitated the filing of this application. It appears that in terms of our earlier order dated 2nd May, 2025, notices have been sent to the proposed substituted legal heirs of Smt. Moumita Dutta, since deceased. Smt. Moumita Dutta died on 4th February, 2025 leaving behind her legal heirs mentioned in paragraph 11, namely, the husband and son. They are all adult, sui juris, fit and competent persons to be substituted in place and stead of Smt. Moumita Dutta.
10. In view thereof, we allow this application and direct the department to carry out the necessary amendments by deleting the name of Smt. Moumita Dutta and substituting it by the names of the legal heirs mentioned in



paragraph 11 within a period two weeks after the Summer Vacation.

11. The appellant/petitioner is directed to serve an amended memorandum of appeal upon the substituted legal heirs.
12. The appeal along with the connected applications being CAN 2999 of 2017, CAN 8675 of 2017 and CAN 3 of 2021 shall be listed in the **Combined Monthly List of July, 2025.**
13. The appellant shall communicate this order to all the respondents by Speed Post with A.D. within a period of two weeks from date.
14. An affidavit-of-service shall be filed on the adjourned date.

(Soumen Sen, J.)

(Smita Das De, J.)