

03.08.2026

Item no. ML40
Court No. 16

Asraf, A.R.(Ct.)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Case No.

FMAT 222 of 2026
with
CAN 1 of 2026

In the matter of :

SIBSANKAR MONDAL & ORS.

...Appellants

VS.

SRI CHITTARANJAN JANA

...Respondent

For the Appellants :

Ms. Shebatee Datta

Ms. Poulami Roy

...Advocates

1. Although the appeal has been preferred against a judgment of remand, since the defendants/appellants seek to assail the same on merits as well, we formulate the following substantial question of law for hearing the appeal:-

- (i) Whether the learned First Appellate Court substantially erred in law in remanding the suit instead of allowing the appeal outright, by holding the decree, passed in the name of a dead person, to be a nullity, the suit having abated in the absence of impleadment of the appellants as heirs and legal

representatives of their predecessor,
the original defendant.

2. Since the appeal has been admitted on the issue whether the suit from which the same arises abated, instead of granting stay of all further proceedings in the apparently-abated suit, there shall be stay of operation of the impugned judgment and decree till disposal of CAN 1 of 2026. The respondent shall also remain restrained by an order of injunction from disturbing the peaceful possession of the appellants in respect of the suit property, except by due process of law, till disposal of CAN 1 of 2026.
3. The appellants shall serve a copy of CAN 1 of 2026 on the respondent, indicating that the application shall next be listed in the Monthly List of September, 2026.
4. Affidavit in opposition and reply in connection with the application, if any, shall be exchanged in the meantime.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)