

08.03.2022

Sl.8

Ct.No. 03

Amalranjan

(Via Video Conference)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

FAT 489 of 2016

**With
CAN 1 of 2016 (Old CAN 9662 of 2016)
(stay/injunction)
With
CAN 2 of 2018
(Old CAN 5520 of 2018)
With
CAN 3 of 2019
(Old CAN 27 of 2019)**

**Sheikh Riyajuddin & Ors.
Vs.
Subhash Mondal & Ors.**

Mr. Ashok Kumar Banerjee, Sr. Adv.
Mr. Rahul Karmakar
Ms. Gargi Goswami
... for the plaintiffs/appellants

This appeal is arising from a partition suit.
The impugned judgment and decree dated June
18, 2016 and June 27, 2016 passed in Title Suit
No. 70 of 2015, whereby, the partition suit stood
dismissed.

The appeal is of 2016.

The appeal stands admitted.

Re: CAN 2 of 2018 (Old CAN 5520 of 2018)
(substitution)

This is an application for recording of death
of the respondent no. 16 and the necessary
substitution in his place and stead in the appeal.

His legal heirs and representatives are mentioned and named in paragraph 8 of the said application. The respondent no. 16 died on January 10, 2018.

This application was taken out on or about July 11, 2018.

From the averments made in the said application it appears that sufficient cause has been shown in filing the said delayed application for substitution.

Accordingly, the delay of 30 days in filing the substitution application stands condoned.

The abatement, if any, stands set aside.

In view of the above, the death of the respondent no. 16 is directed to be recorded in the records of the appeal wherever it is necessary. The legal heirs and representatives of the respondent no. 16 as mentioned in paragraph 8 of the substitution application be substituted accordingly.

The department is directed to carry out the amendments to cause such substitution in the records of the appeal wherever it is necessary within three weeks of communication of this order.

The advocate on record for the applicants shall serve a copy of the amended cause title on

the advocate on record for the respondents/ the substituted added respondents.

The application **CAN 2 of 2018 (Old CAN 5520 of 2018)** is, thus, disposed of.

Re: CAN 3 of 2019 (Old CAN 27 of 2019)

This is an application for recording of death of the respondent no. 10 and the necessary substitution in his place and stead in the appeal. The legal heirs and representatives are mentioned and named in paragraph 9 of the said application. The respondent no. 10 died on July 20, 2017.

This application was taken out on or about January 2, 2019.

From the averments made in the said application it appears that sufficient cause has been shown in filing the said delayed application for substitution.

Accordingly, the delay of 381 days in filing the substitution application stands condoned.

The abatement, if any, stands set aside.

In view of the above, the death of the respondent no. 10 is directed to be recorded in the records of the appeal and wherever it is necessary. The legal heirs and representatives

of the respondent no. 10 as mentioned in paragraph 9 of the substitution application be substituted accordingly.

The department is directed to carry out the amendments to cause such substitution in the records of the appeal wherever it is necessary within three weeks of communication of this order.

The advocate on record for the applicants shall serve a copy of the amended cause title on the advocate on record for the respondents/ the substituted added respondents.

The application **CAN 3 of 2019 (Old CAN 27 of 2019)** is, thus, disposed of.

Re: CAN 1 of 2016(Old CAN 9662 of 2016)
In
FAT 489 of 2016

Since the appeal has already been stands admitted as mentioned hereinabove, we are minded to expedite the appeal for hearing by dispensing with the transmission of the lower court records, for the time being. We shall only call for them if and when required.

As the respondents are not appearing, a notice of appeal be issued and served by this court by March 31st, 2022.

The advocate on record for the appellants is to prepare and file the requisite number of informal paper books by April 11, 2022, serving at least one copy thereof on the advocate on record for the respondents not later than 5 days before the date of hearing of the appeal.

All other formalities regarding preparation of paper books are dispensed with.

In view of the above, the stay/injunction application **(CAN 1 of 2016(Old CAN 9662 of 2016)** also stands disposed of.

List this appeal **(FAT 489 of 2016)** for hearing on April 25, 2022.

(Aniruddha Roy,J.)

(I. P. Mukerji,J.)