

Item-
12. 19-09-2025

sg Ct. 1

FA 172 of 2024
CAN 4 of 2025
CAN 5 of 2025
CAN 6 of 2025

Subir Prodhan & Anr.
Versus
Madhumita Dey & Ors.

Mr. Ayan Kumar Boral
Ms. Saswati Sengupta
...for the appellants
Mr. Debasish Roy, Sr. Adv.
Mr. Pran Gopal Das
...for the applicant in CAN 5/2025
Mr. Gopal Chandra Das
Ms. Ananya Das
...for the defendant nos. 3&4

In Re: CAN 4 of 2025

1. This is an application for substitution of the legal heirs of the appellant no.2(b), who died on 26th October, 2024 during the pendency of the appeal. The said deceased is surviving by her mother namely, respondent no.2(a) as his sole surviving legal heir. The application was filed within the period of limitation. The application is allowed.
2. The department is directed to record the death of the appellant no. 2(b) and expunge the name of the appellant 2(b) from the memorandum of appeal and shall carry out necessary amendment on or before 26th September, 2025.
3. CAN 4 of 2025 is, accordingly, disposed of.

In Re: CAN 6 of 2025

4. This is an application for recording the death of the respondent no.2 and for substitution of the legal heirs and

representatives of the respondent no.2.

5. It is submitted that the plaintiffs were unaware of the death of the original defendant no.2 and when this application was served upon the respondent no.2 and postal envelope was returned with the remark “deceased”, it transpired that she died in the meantime.
6. Mr. Debasish Roy, learned Senior Counsel, appearing for the purchasers has submitted that the record would show that the defendant no.2 died on 27th July, 2025 as would appear from the documents made available to the purchasers at the time of preparation of the deed of sale.
7. Having regard to the fact that the joint written statement was filed before the learned Trial Judge and the original defendant no.2 was sufficiently represented in the said proceeding, we allow this application for substitution.
8. After the recording the death of the respondent no.2, her sole legal heir namely, Subhajit Barman be substituted. The legal heirs are major, sui juries and right to sue shall survive.
9. CAN 6 of 2025 is accordingly disposed of.

In Re: CAN 5 of 2025

10. This is an application for addition of parties. The applicants claimed to have purchased the suit property from the original defendant no.1 and the legal heirs of the defendant no. 2 by a deed dated 3rd July, 2017.
11. The learned Counsel for the appellants has objected to the addition of parties on the ground that the trust deed provides succession only by the male descendants and the

trust has not come to an end. However, the learned Trial Court has dismissed the suit accepting the plea of the original defendants that the trust has come to an end and they became the owners of the properties which seem to have been accepted by the learned Trial Court.

12. In view thereof, we allow this application for addition of parties.
13. CAN 5 of 2025 is allowed and thus disposed of.
14. The applicants to this application shall be added as respondents in the memorandum of appeal.
15. The department is directed to carry out the necessary amendments in the memorandum of appeal on or before 26th September, 2025.

In Re: FA 172 of 2024

16. The paper book has already been filed.
17. A copy of the paper book shall be served upon Mr. Pran Gopal Das, Advocate, representing the purchasers on or before 10th November, 2025.
18. The appeal shall be listed in the **Monthly List of December, 2025.**
19. Amended copy of the memorandum of appeal shall be served upon the respondents on or before 10th September, 2025.

[Soumen Sen, C.J. (Acting)]

(Biswaroop Chowdhury, J.)