

18.02.2022
Item No.8 & 9
Ct. No.7
CHC

S.A.T.484 of 2014
IA NO: CAN/1/2014 (Old No:CAN/10857/2014)
CAN/2/2021
CAN/3/2022
(Via Video Conference)

Sri Chanchal Sanfui & anr.
.....
Vs.
Smt. Gita Rani Pramanick & ors.
With
S.A.T.485 of 2014
IA NO: CAN/1/2014 (Old No:CAN/10856/2014)
CAN/2/2014 (Old No.CAN/10859/2014)
CAN/3/2021
CAN/4/2022
Sri Chanchal Sanfui & anr.
.....
Vs.
Smt. Gita Rani Pramanick & ors.

Mr. Sounak Bhattacharya,
Mr. Nilanjan Adhikari
...for the appellants/petitioners

Mr. Sandip Das
...for the respondent nos.1 & 2.

The applications being CAN/3/2022 in SAT/484/2014 and CAN/4/2022 in SAT/485/2014 are for addition of parties for the death of respondent no.6.

Mr. Bhattacharya submits that respondent no.6, namely, Bijoli Pramanick died intestate on 29th August, 2019, leaving behind heirs disclosed in 'paragraph-6' of such CAN applications. Out of such

legal heirs, one Jharna Safui is already on record as respondent no.5. Others legal heirs, are thus required to be brought on record.

Mr. Sandip Das, learned advocate appearing for the respondent nos.1 and 2 submits that without setting the abatement, the addition of parties should not be taken into account.

Having considered the submission of both sides, it appears that the legal heirs left by respondent no.6 automatically stepped into the shoes of respondent no.6 with the demise of respondent no.6, and as such, no new interest is created by the legal heirs left by respondent no.6, out of which respondent no.5 being one of the legal heirs of respondent no.6 is already on record.

That being the position, neither there is any requirement of substitution, nor there is any necessity of setting aside the abatement, as proposed by the learned advocate for the respondents.

C.A.N. applications being CAN/3/2022 and CAN/4/2022 are thus disposed of allowing the addition of the parties in terms of the paragraph-‘6’ of the CAN applications, wherein, legal heirs of respondent no.6 have been conspicuously disclosed.

Department to make necessary correction in the Memo of Appeal. The legal heirs of respondent no.6, are thus be brought on record.

Department is directed to serve notice of appeal upon the legal heirs of respondent no.6.

Issue usual notice.

Call for the records.

The lower court's record be called for by Special Messenger at the cost of the appellants. Such cost should be deposited within a week from date.

The concerned department will take steps for bringing the lower court's record immediately on deposit of such special messenger's cost. The concerned department is further directed to examine the lower court's record immediately on receipt of the same from the Court below.

The concerned department is directed to serve a notice of arrival of lower court's record upon the learned advocate-on-record of the appellants immediately after the record is examined and found complete.

The appellants are also directed to prepare and file the requisite number of paper books within eight weeks from date in the concerned department. All formalities regarding preparation of paper books are dispensed with.

The appellants are further directed to serve a copy of the said paper book upon the respondents/opposite parties and/or their learned

advocate-on-record of the respondents immediately thereafter.

Matter to go out of list presently with liberty to mention for inclusion after the appeal is made ready for hearing.

(Subhasis Dasgupta, J.)