



26.06.2023

FAT 328 of 2020
With
CAN 2 of 2022
With
CAN 3 of 2022
With
CAN 4 of 2023
Amal Kumar Ghosh

Vs.
Rathindra Mohan Ghosh & Ors.

Mr. Prabir Kumar Misra
Mr. Shibendra Nath Chattopadhyay
Mr. D. Banerjee
Mr. P. Misra
Mr. A. Chakraborty
Mr. S. Das

... .. for the appellant

Mr. Kumaresh Dalal

... .. for the respondent nos.1 and 2

Mr. Mohit Chatterjee

... .. for the respondent nos.3(a) and 3(b)

In Re. : CAN 4 of 2023

This is an application for recording the death of Debabrata Sinha, respondent no.3(a) who died after institution of the appeal. He was a bachelor and did not leave behind any legal heir except his sister Anjana Ghosh who is already a party respondent no.3(b). Hence, name of Debabrata Sinha be deleted from the cause title.

This application being CAN 4 of 2023 is allowed.

In Re. : CAN 2 of 2022

This application has been taken out by the appellant for certain directions for expeditious hearing of the appeal.

We are told that earlier this Court had made directions directing the learned Court below to transmit



the records of the case for the purpose of preparation of paper book. The records have been transmitted but a few documents are missing. There are also some other discrepancies.

It is submitted that for early disposal of the appeal it can be heard out on photocopies of the papers used in the Court below. We accept such submission. Advocate on record for the appellant shall prepare and file in this Court an informal paper book containing all the papers used before the Court below. Such paper book is to be filed by 21st July, 2023. Before filing the paper book an index of papers should be prepared and forwarded to the advocates on record for the respondents for verification and approval.

A copy of the paper book should be served by the advocate on record of the appellant on each of the respondent at least 7 days prior to date of hearing of the appeal.

In the meanwhile, the department will take all steps to procure the missing papers from the learned Court below so that they are available in the records of this Court.

List the appeal for hearing on 2nd August, 2023.

The application being CAN 2 of 2022 is disposed of.

In Re. : CAN 3 of 2022

This application is for some interim measures in this appeal. Principally the respondent no.3(b) wants



share of the rent being collected from the suit property. It appears from the submission made that the rent is being collected and retained in the same manner for a very long period of time. In our opinion there is no change in circumstances now which would necessitate an interim order being passed, the appeal.

In those circumstances, we rule that this application would be heard out along with the appeal. However, those who are collecting rent must keep a strict account of the collection and the expenses being made out of that rent.

Let affidavits be exchanged in the application being CAN 3 of 2022 in the following manner:

Affidavit-in-opposition by 10th July, 2023; affidavit-in-reply by 21st July, 2023.

(I.P. Mukerji, J.)

(Biswaroop Chowdhury, J.)