

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

IA NO. GA/6/2026
IN
CS/140/2024

MANOJ KUMAR VERMA AND ORS.
VS
GYAN PRAKASH AND ORS.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 25th March, 2026

Appearance:

Mr. Diptomoy Talukdar, Adv.

Mr. A. K. Upadhyay, Adv.

Mr. A. Banerjee, Adv.

. . For the petitioners.

Mr. Aditya Garodia, Adv.

Mr. Pourush Bandopadhyay, Adv.

Mr. Pintu Ghosh, Adv.

Mr. U. Garodia, Adv.

. . .For respondent nos.1 to 7 and 9 to 11.

Mr. Kuldip Mallik, Adv.

Mr. Ajoy Choubey, Adv.

. . . . for respondent nos.8(a), 8(b) and 8(c).

The Court :- This is an application by the plaintiffs for recording the death of the plaintiff no.6 who died according to the applicants, testate on 5th February, 2026. The application is filed within the timeframe provided under Article 120 of the Limitation Act, 1963. Moreover, all the legal heirs and heiresses of the deceased plaintiff are on record.

The only objection raised on behalf of the defendant nos.1 to 7 and 9 to 11 is that the application has not been properly affirmed. Referring to the affidavit appended to the application it is submitted that the applicant no.1 (plaintiff no. 1) has described himself to be the constituted Power of Attorney of the deceased plaintiff no. 6 which is a representation impermissible in law as the Power of Attorney, if any, executed by the plaintiff no.6 in favour of the applicant no.1 ceased to operate on the death of the plaintiff no.6.

The applicant no.1 has stated in his affidavit that the application is made on behalf of himself and the plaintiff nos.2 to 5 and 7. No application on behalf of the deceased plaintiff no.6 can or could be made by a constituted attorney. This objection of the defendant nos.1 to 7 and 9 to 11 is a valid objection but relates to a technical defect in the application. This Court is not inclined to be stringent in the technical issues when in substance the contents of the application are not in dispute.

The application is, therefore, allowed. The death of the plaintiff no.6 is recorded. Consequential amendments as shown in red ink in a copy of the plaint being Annexure 'C' to this application are allowed. The department is directed to carry out the amendments within a fortnight from the date of communication of this order. On the amendments being carried out, the plaintiffs will be entitled to re-verify and re-affirm the plaint. Immediately upon re-verification and re-affirmation of the plaint, an amended copy of the plaint shall be served on the learned Advocates representing the defendants.

Nothing further remains to be adjudicated in this application.

The application being GA 6 of 2026 is accordingly disposed of.

(ARINDAM MUKHERJEE, J.)

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