

01,DL.Ct.18
06.09.2021
AJ.

S.A. 1321 of 1971

**I.A. No.: C.A.N. 1 of 1998 (Old C.A.N. 4543 of 1998)
C.A.N. 2 of 2003 (Old C.A.N. 7787 of 2003)
C.A.N. 3 of 2004 (Old C.A.N. 8189 of 2004)
C.A.N. 4 of 2005 (Old C.A.N. 6742 of 2005)
C.A.N. 6 of 2010 (Old C.A.N. 4032 of 2010)
C.A.N. 7 of 2014 (Old C.A.N. 1628 of 2014)
C.A.N.10 of 2018 (Old C.A.N. 335 of 2018)
C.A.N.11 of 2018 (Old C.A.N. 1936 of 2018)
C.A.N.12 of 2019 (Old C.A.N. 7877 of 2019)**

(Via Video Conference)

Md. Saheb Ali @ Sayeb Ali & Ors.

-Vs-

**Sk. Ali Akbar, since deceased, his
legal heirs and representatives
Minara Khatun & Ors.**

Mr. Asit Kumar Bhattacharya (III).

....for the applicants.

C.A.N. 2 of 2003 (C.A.N. 7787 of 2003)

This is an application for substitution of the heirs and legal representatives of the deceased appellant no.3, who has died intestate during the pendency of the present Second Appeal on June 12, 2003 leaving behind him surviving his legal heirs and representatives whose particulars have been set out in the cause title of the application being the petitioner nos. 3(a) to 3(c).

The application is in form and is filed within time is, therefore, allowed.

Let the legal heirs and representatives of the deceased appellant no.3 be brought on record.

Department is directed to carry out necessary amendments in the cause title of the memorandum of appeal.

Mr. Asit Kumar Bhattacharya (III), learned advocate appearing on behalf of the applicants submits that he is holding Vakalatnama on behalf of the said substituted appellants and shall file the same in the Department in course of this week.

The application being C.A.N. 7787 of 2003 is, thus, allowed without any order as to costs.

C.A.N. 3 of 2004 (C.A.N. 8189 of 2004)

This is an application for substitution of the heirs and legal representatives of the deceased appellant no.4, who died intestate during the pendency of the present Second Appeal on August 13, 2004 leaving behind him the surviving petitioners of the present application as his legal heirs and representatives.

The application is in form and is filed within time is, therefore, allowed.

Let the legal heirs and representatives of the deceased appellant no.4, the petitioners herein be brought on record in place and instead of the said deceased appellant.

Department is directed to carry out necessary amendments in the cause title of the memorandum of appeal.

Mr. Asit Kumar Bhattacharya (III), learned advocate appearing on behalf of the applicants submits that he has already filed Vakalatnama on behalf of the said substituted appellants, annexing the same with the application which may be taken on record.

The Vakalatnama so filed be tagged with the record.

The application being C.A.N. 8189 of 2004 is, thus, allowed without any order as to costs.

C.A.N. 6 of 2010 (C.A.N. 4032 of 2010)

This is an application for substitution of the heirs and legal representatives of the deceased respondent no. 1(b), who died intestate during the pendency of the present Second Appeal on January 30, 2010 leaving behind him surviving his legal heirs and representatives whose particulars have been set out under paragraph 2 of the application.

The application is in form and is filed within time is, therefore, allowed.

Let the said legal heirs and representatives of the deceased respondent no.1(b) be brought on record.

Department is directed to carry out necessary amendments in the cause title of the memorandum of appeal.

The appellants are required to put in requisites for service of notice of the appeal upon the substituted respondents by Speed Post with Acknowledgement Due, such costs be put in within two weeks from date.

The application being C.A.N. 4032 of 2010 is, thus, allowed without any order as to costs.

C.A.N. 7 of 2014 (C.A.N. 1628 of 2014)

This is an application for substitution of the heirs and legal representatives of the deceased appellant no. 7 after setting aside of the abatement on condonation of delay.

The appellant no. 7 died intestate during the pendency of the present Second Appeal on November 03, 2013 leaving behind him surviving his legal heirs and representatives whose particulars have been set out under paragraph 3 of the application.

The appellate decree under challenge since is a preliminary decree of partition; there is no question of abatement of the appeal as a whole.

The explanations offered are sufficient. Therefore, the application is allowed after setting aside the abatement on condonation of delay.

Let the legal heirs and representatives of the deceased appellant no. 7 be brought on record.

Department is directed to carry out necessary amendments in the cause title of the memorandum of appeal.

The application for substitution being C.A.N. 1628 of 2014 is, thus, allowed without any order for costs.

Mr. Asit Kumar Bhattacharya (III), learned advocate appearing on behalf of the applicants has already filed Vakalatnama on behalf of the substituted appellants along with the application, the said Vakalatnama be taken on record.

C.A.N. 1 of 1998 (C.A.N. 4543 of 1998)
C.A.N. 4 of 2005 (C.A.N. 6742 of 2005)
C.A.N.10 of 2018 (C.A.N. 335 of 2018)
C.A.N.11 of 2018 (C.A.N. 1936 of 2018)
C.A.N.12 of 2019 (C.A.N. 7877 of 2019)

These applications although are appearing in the list, but are not in the record.

Department is directed to trace out the applications before the adjourned date.

Put up the matter three weeks hence under the same heading.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)