

11.05.2022
Item No.40
Court No.18
AJ.

S.A. 139 of 2001

IA No: CAN 3 of 2016 (Old CAN 2991 of 2016)

**Sri Kamal Singh Roy, since deceased, his
heirs and legal representatives Gabin Roy & Ors.**

-Vs-

**Smt. Umewari Roy (since deceased)
Bholabala alias Bholeswari Roy & Ors.**

Mr. Tarak Nath Haldar.

....for the applicants/appellants.

In Re : CAN 3 of 2016 (Old CAN 2991 of 2016)

Affidavit of service filed by Mr. Tarak Nath Haldar, learned advocate for the appellants/applicants be taken on record.

None appears on behalf of the respondents/opposite parties in spite of service.

This is an application for substitution of the heirs and legal representatives of the deceased appellant no. 2 after setting aside abatement on condonation of delay.

The appellant no.2 has died intestate during the pendency of the present second appeal on February 15, 2008 leaving behind him surviving his heirs and legal representatives, whose particulars have been set out under paragraph '4' of the said application.

The delay in filing the application for substitution has been properly explained, as such, condoned and in consequence thereof, the

abatement of the appeal so far as it relates to deceased appellant no. 2, is set aside.

The application is otherwise in form, as such, allowed.

Let the said heirs and legal representatives of the deceased appellant no.2 be brought on record.

Department is directed to carry out necessary amendment in the cause-title of the Memorandum of appeal and also to tag the Vakalatnama of the said substituted appellants annexed with the present application, with the record.

The appellants/applicants are directed to put in requisite for service of notice of appeal by Speed Post with Acknowledgement Due upon the substituted respondents.

The application being CAN 3 of 2016 (Old CAN 2991 of 2016) is, thus disposed of without any order as to costs.

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.)