

11.01.2023
Item No.10
Court No.32
Avijit Mitra

FMA 820 of 2018
with
IA No. CAN 1 of 2020 (Old No. CAN 2495 of 2020)
with
IA No.2 of 2022
with
IA No.3 of 2022

Raj Kumar Shaw
- Versus -
Sri Sankar Prasad Shaw & ors.

Mr. Rabi Prosad Mookherjee,
Ms. Sumitra Das
.....for the applicant
Mr. Pinaki Ranjan Mitra
...for the respondent nos. 1 & 2
Mr. Sourav Sen,
Ms. Adrisnata Chakraborty
...for the respondent nos. 7,8 &10

Affidavit of service filed by the applicant be kept on
record.

In re: CAN 2 of 2022

In this application, the appellant/applicant has
sought for an order for recalling the order dated 19th
August, 2021 whereby the appeal has been dismissed for
default.

Heard the learned advocates appearing for the
respective parties and perused the materials on record
placed before us. On such hearing and perusal of the
same we are satisfied with the causes shown in the
application which prevented the appellant from appearing

before the Court when the appeal was called on for hearing.

Accordingly, the application being IA No. CAN 2 of 2022 is allowed and the order dated 19th August, 2021 is hereby recalled and the appeal is restored to its original file and number.

The application being IA No. CAN 2 of 2022 is disposed of.

In re: CAN 3 of 2022

This application has been filed praying for an order for substitution of opposite party no.4, namely, Tara Bhagat who died on 25th September, 2015 leaving behind the legal heirs, particulars of whom, have been detailed in paragraph 15 of the application and also for the substitution of the legal heirs of the opposite party no.17 who died on 7th September, 2015 leaving behind the legal heirs detailed in paragraph 16 of the application.

This application is arising out of a partition suit and shares of Tara Bhagat and Saraswati Gupta have devolved upon their respective heirs and hence, they are interested in result of the appeal and their presence is required for adjudication of the dispute. Hence this application is allowed.

Let the legal heirs of Tara Bhagat (since deceased) detailed in paragraph 15 be substituted in place and stead of opposite party no.4 namely, Tara Bhagat and also let the legal heirs of Saraswati Gupta (since

deceased) detailed in paragraph 16 be substituted in place and stead of opposite party no.17 namely Saraswati Gupta.

Office is directed to make necessary correction in the appeal.

Accordingly, the application being IA No.3 of 2022 is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty J.)