

25.03.2021
Ct. No.9
S/L No.1
KS

S.A. 578 of 2008
With
IA No. CAN 4 of 2019 (Old No. C.A.N. 9130 of 2019)
+
IA No. CAN 5 of 2019 (Old No. C.A.N. 9132 of 2019)

Smt. Chintamoni Das & Ors.
-Vs.-
Smt. Parul Kairi & Ors.

(Via Video Conference)

Mr. Nabankur Paul
.....For the Appellants
Mr. Tapas Kumar Ghosh
Mr. Tanmoy Chowdhury
.....For the Respondent

IA No. CAN 4 of 2019 (Old No. C.A.N. 9130 of 2019)

This is an application for recording or noting the death of the appellant nos.1 and 2 namely, Chintamoni Das and Nirmal Kumar Das.

It is submitted that during pendency of this appeal the appellant no.1 died intestate and appellant no.2 also died intestate on January 10, 2018 and April 1, 2017 respectively leaving the appellants being the appellant nos.1, 2 and 3 herein as their only legal heirs and successors. After the death of the appellant nos.1 and 2, the present

appellants/petitioners being their only legal heirs and successors the question of any substitution on their death to bring the legal heirs and successors does not and cannot arise at all. It is pointed out that the present appellants do not want to proceed with the appeal as they have amicably settled the issues in dispute involved between the parties. Accordingly, the prayer has been made for recording the date of death of appellant nos.1 and 2 aforesaid in the pending appeal with further noting that the present petitioners/appellants nos.1, 2 and 3 being the heirs and successors of the said deceased appellants are already on record.

Having heard learned advocate for both the parties, application being, IA No. CAN 4 of 2019 (Old No. C.A.N. 9130 of 2019) is disposed of with the note in the Memorandum of Appeal that the appellant no.1 and 2 have died and their heirs and successors are already on record.

However, there shall be no order as to costs.

IA No. CAN 5 of 2019 (Old No. C.A.N. 9132 of 2019)

This is an application for non-prosecution of the appeal, being, S.A. 578 of 2008, inter alia, on the grounds that the

parties have amicably settled the issues involved in the appeal pursuant to the interference by the well wishers and friends of the appellants.

Hence, the application being, IA No. CAN 5 of 2019 (Old No. C.A.N. 9132 of 2019) and the appeal being, S.A. 578 of 2008 are dismissed for non-prosecution without any order as to costs.

L.C.R., if any, be sent down to the learned Court below.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(Shivakant Prasad, J.)