

14.07.2022
Item No.10
Court No.18
AJ.

S.A. 38 of 1997

**I.A. No: CAN 1 of 2019 (Old CAN 4153 of 2019)
CAN 2 of 2019 (Old CAN 11968 of 2019)
CAN 3 of 2022**

**Smt. Indra Gupta & Ors.
-Vs-
Mrs. Leena Majumdar**

Mr. Partha Pratim Roy,
Mr. Srijib Chakraborty,
Mr. Dipak Dey,
Mr. Dipanjan Dey,
Ms. Shreyasi Manna.
....for the respondent.

In Re: **CAN 1 of 2019 (Old CAN 4153 of 2019)
CAN 2 of 2019 (Old CAN 11968 of 2019)**

None appears on behalf of the appellants/
applicants on call.

The respondent is represented.

Both the appellants died during the
pendency of the present second appeal.

These two applications were taken out for
substitution of the heirs and legal representatives
of the deceased appellants. The Co-ordinate Bench
by the order dated December 16, 2019 had allowed
the said applications and this Court by the order
dated February 16, 2022 directed the Department
to amend the cause title of the memorandum of
appeal, consequent thereupon such amendment
was carried out.

On scrutiny of the record, subsequently it
was detected that except one, the other applicants
of the said applications did not execute any

Vakalatnama in favour of the learned advocate who filed the said applications for substitution.

The said learned advocate could not remove the said defect in spite of opportunity being given.

The instant applications thereafter were placed before the Co-ordinate Bench and by the order dated June 17, 2022 the said order dated December 16, 2019 was recalled.

The applications are now appearing before me.

None appears in support of the applications as such both the applications are dismissed for default also being not in form.

In consequence of recall of the order dated December 16, 2019 the order dated February 16, 2022 is also recalled. The Department is directed to delete the names of the substituted appellants from the cause title of the memorandum of appeal.

CAN 03 of 2022

This is an application filed by the respondent for recording abatement of the appeal. The appeal has already been abated by operation of law. The application for substitution of the heirs and legal representatives of the deceased appellants since have already been dismissed, the formal order of abatement of the instant second appeal is recorded, in consequence thereof S.A. 38 of 1997 is dismissed as abated.

CAN 03 of 2022 is thus disposed of without any order as to costs.

Let the lower Court records be sent down to the Court below by special messenger at the costs of the respondent, such costs be put in within a week from date.

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.)