

18.01.2023
SL No.10
Court No.8
(gc)

**SA 121 of 2010
CAN 1 of 2018 (Old No: CAN 2961 of 2018)**

**Gangadhar Jew Shib Thakur
Represented by Chittaranjan Mondal & Ors.
Vs.
Bhaktipada Karmakar & Ors.**

Mr. Uttiya Ray,
...for the Appellants.
Mr. Syed Shamsul Arefin,
Mr. Kaniz Kulsum,
Ms. Nadira Abedin,
...for the Respondents.

**Re: CAN 1 of 2018
(Old No: CAN 2961 of 2018)**

There is a delay of five years in filing the application for substitution of the names of the legal heirs and successors of the appellants. There is no dispute that the present Advocate-on-record was appointed by the appellants to conduct the proceeding. The appeal is pending since 2009 without any intention to move the appeal. In the process, many of the parties have died. We are clear in our mind that there was no willingness on the part of the appellants to move the appeal. Both the Courts have decided the matter against the appellants. The explanation offered for not being able to file the application for substitution within the period of limitation is clearly unacceptable.

On such consideration, the application being CAN 1 of 2018 (Old No: CAN 2961 of 2018) stands dismissed.

In view of dismissal of the application, the appeal stands abated and, accordingly, dismissed.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)