

Item-40. 13-04-2023

sg Ct. 8

FA 41 of 2009
CAN 2 of 2009 (Old CAN 10232 of 2009)
CAN 3 of 2010 (old CAN 7191 of 2010)
CAN 6 of 2014 (old CAN 8802 of 2014)

Surendranath Roy
Versus
Sailabala Roy, since deceased, represented by
the legal heirs, Subhash Chandra Roy & Ors.

Mr. Suhrid Sur, Adv.

...for the appellant

CAN 6 of 2014 (old CAN 8802 of 2014) is the application
for setting aside of abatement.

We have read the application and also read the earlier
orders. It seems that the appellant is not interested to have the
matter heard. There is hardly any step taken by the appellant to
file the application for substitution within the time. There is
considerable delay in filing the application for substitution.

The parties are siblings and we are unable to accept the
explanation offered for not bringing on record the legal heirs of the
original respondent no.1 within the time of limitation. The only
purpose is to delay the hearing of the appeal without any positive
intention and inclination to have the appeal heard. The final decree
proceeding has remained stayed for almost 13 years due to
pendency of the appeal, although there was no formal order of
stay.

Under such circumstances, we refuse to set aside the
abatement.

The application for setting aside abatement is rejected.

The appeal has already abated. The application for
expeditious hearing of the appeal has now become infructuous.

The appeal and all the connected applications are, accordingly, dismissed.

The Trial Court is directed to conclude the final decree proceeding as expeditiously as possible.

The learned Registrar Administration (L&OM) is directed to communicate this order to the learned District Judge for information and doing the needful.

(Uday Kumar, J.)

(Soumen Sen, J.)