

13.02.2023.
p.b.
Sl. No.14-15.

C.O. No.1617 of 2010
With
C.O. No.249 of 2009
with
CAN 8 of 2021
With
CAN 9 of 2022
With
CAN 10 of 2022

Sri Jagabandhu Mondal & Ors.
Vs.
Sri Swapan Kumar Mondal & Ors.

Mr. Tarak Nath Halder,
Mr. Nirmalendu Bera.
.....for the petitioners.

Mrs. Usha Maity,
Ms. Anita Khatri,
Mr. Sakya Maity.
.....for the opposite party.

C.O. 249 of 2009.

Petitioners/defendant nos.1 to 7 and the opposite party no.12 are represented by their respective learned advocates. CAN 9 of 2022 and CAN 10 of 2022 are taken up for hearing. In CAN 10 of 2022, the present petitioner has prayed for deleting the name of the opposite party no.11, Namada Mondal, since her legal heirs are on record. In view of such prayer, this Court finds no predicament in allowing such prayer. Accordingly, CAN 10 of 2022 is allowed.

Department is hereby directed to delete the name of the opposite party no.11, Namada Mondal from the cause title of the instant revisional application being C.O. 249 of 2009.

CAN 9 of 2022.

By filing CAN 9 of 2022, it is submitted that due to bona fide mistake, opposite party no.10 Pradip Kumar Mondal @ Sobham Mondal was added as opposite party no.10, though prior to the institution of the instant revisional application, he died i.e. on 11th September, 2005. It is thus submitted that in place of deceased opposite party no.10, Pradip Kumar Mondal @ Sobham Mondal, the name of his legal heirs namely; Pappu Mondal, Bebi Mondal and Smt. Umarani Mondal, all of Sahapur, Government Colony, New Alipur, Kolkata – 700 065, be added.

Such prayer has been opposed on behalf of the opposite party no.12 on the ground that since abatement has already been set in, such application cannot be allowed without curing and/or setting aside the abatement. It is further submitted on behalf of the opposite party no.12 that no application for condonation of delay has also been filed.

On perusal of the entire materials and after hearing the learned advocates on both sides, it appears that since the petitioner has wrongly added a deceased person as

respondent no.10, the present petitioners can be given a liberty to cure such defect. Accordingly, CAN 9 of 2022 is also hereby allowed.

Department is directed hereby to correct the cause title in respect of opposite party no.10 by deleting the name of Pradip Kumar Mondal @ Sobham Mondal and in its place the names and particulars of his legal heirs as mentioned in paragraph 6 of CAN 9 of 2022 be incorporated.

Petitioner is hereby directed to serve copies upon the newly added opposite parties under Speed Post with A/D and to file affidavit of service on the next date of hearing.

Let the instant matter be listed on 6th March, 2023.

CAN 8 of 2010.

At this stage, CAN 8 of 2010 is taken up for hearing. By filing the instant application, the petitioners have prayed for addition of some of the respondents. It is candidly submitted on behalf of the petitioner that due to bona fide mistake, CAN 8 of 2010 has not been properly drafted for which learned advocate for the petitioners expresses his intention to withdraw the application with liberty to file afresh similar such application.

Heard both sides. Prayer is allowed. CAN 8 of 2010 stands hereby withdrawn and is thus disposed with a liberty to the present petitioners to file similar such

application in future in the instant revisional application, if occasion so arises.

C.O. 1617 of 2010.

Both the petitioner and the opposite party no.12 are represented by their respective learned advocates.

It is submitted on behalf of the petitioner that for the present, the petitioners are not willing to proceed with the matter. Accordingly, it is ordered that C.O. 1617 of 2010 stands dismissed for non-prosecution. Interim order, if there be any, stands vacated.

(Partha Sarathi Sen J.)