

07-10-2024
ct no. 13
Sl. 64
sp

F.A. 459 of 2008
With
CAN 1 of 2024
State of West Bengal
-Versus-
Puskar Ghosh

Mr. Ashim Kumar Ghosh
.....for the respondent

1. Appellant is not represented today.
2. Affidavit of service filed in Court today is taken on record.

CAN 1 of 2024

3. CAN 1 of 2024 is an application for substitution of the original respondent Puskar Ghosh, who died on 25th October, 2020.
4. It is submitted by the learned counsel appearing for the respondent that in land acquisition proceeding under the West Bengal Land (Requisition and Acquisition) Act, 1948, there is no abatement of the proceeding.
5. Reliance is place on the decision of this Court in the case of ***Bhadar Munda and***

another, appellants Vs. Dhuchua Oraon, respondent reported in ***AIR 1970 Patna 209*** and the decision of the Madhya Pradesh High Court in the case of ***Abdul Karim s/o Abdul Hakim and another, appellants vs. State of M.P. through, the Collector, Bilaspur, respondent*** reported in ***AIR 1964 Madhya Pradesh 171***.

6. It is true that there is no abatement of a proceeding under the Act of 1948. There is however some gray area as to whether the principle can be applied to a first appeal in the High Court.
7. This Court is inclined to allow the application for substitution.
8. CAN 1 of 2024 shall stand disposed of.
9. Let Rakesh Ghosh, son of late Puskar Ghosh, Shibani Ghosh, wife of late Puskar Ghosh and Munmun Ranjan Ghosh, daughter of late Puskar Ghosh be substituted in place and stead of the original respondent Puskar Ghosh. Abatement of the appeal, if any, shall stand set aside.

10. F.A. 459 of 2008 shall stand dismissed for default.
11. Let the trial Court records be sent back to the Court below. The adjudged amount by the Court below shall be paid to the substituted respondents within a period of 3 months from date positively and mandatorily.
12. Interim orders, if any, shall stand vacated.
13. There shall be no order as to costs.
14. The registry shall communicate a copy of this order to the Court below.
15. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)