

FMA 755 of 2009
with
IA No. CAN 1 of 2008(Old No. CAN 1735 of 2008)
CAN 2 of 2012(Old No. CAN 7699 of 2012)
CAN 5 of 2023

Mandira Bhattacharjee
Vs.
Smt. Mitra Mukherjee

Mr. Udaynarayan Betal
... For the Appellant

Mr. Vinay Kumar Purohit
... For the Respondent

Re: CAN 5 of 2023
(Substitution)

1. CAN 5 of 2023 is an application for substitution filed consequent upon the death of the appellant, namely, Mandira Bhattacharjee, who died intestate on 7th June, 2023 leaving behind her the legal heirs and representatives, as described in paragraph 5 of the said application.
2. After hearing the learned counsel appearing for the parties and considering the fact that the heirs and legal representatives of the deceased appellant are major and sui juris and the right to sue and be sued survives in favour of such heirs mentioned in this application, we allow the application for substitution and direct substitution of heirs and legal representatives of deceased appellant, as described in the said application instead of and in place of the deceased appellant in the appeal.

3. The application being CAN 5 of 2023 is thus allowed without any order as to costs.
4. Office shall carry out the necessary amendments in the cause title of the Memorandum of appeal, as indicated hereinbefore within 24th December, 2024.

Re: FMA 755 of 2009

1. Learned counsel for the substituted appellants has placed before this court a letter of instruction dated 25th November, 2024 addressed to Mr. Udaynarayan Betal, learned counsel appearing for the substituted appellants, wherefrom it appears that the substituted appellants have instructed Mr. Udaynarayan Betal to withdraw the appeal along with all connected applications. The original letter of instruction filed in court is taken on record.
2. In view thereof, FMA 755 of 2009 stands dismissed as withdrawn along with CAN 1735 of 2008 and CAN 7699 of 2012.
3. Interim order, if any, stands vacated.
4. T.C.R be sent down to the trial court by the department at the earliest through special messenger at the cost of the respondent.

5. Learned counsel for the respondent volunteers to deposit such costs of special messenger and the same shall be deposited in the department on or before 24th December, 2024.

(Soumen Sen, J.)

(Biswaroop Chowdhury, J.)