

AD -3
Ct No.16
24.12.2025
(SSS)

SAT 46 of 2017
With
CAN 3 of 2025

Smt. Sunanda Chatterjee and Anr.
Vs.
Braja Mohan Das and Anr.

Mr. Anjan Biswas,
Mr. Arijit Chatterjee,
Ms. Neha Biswas, Advs.
....For the appellants.

1. None appears, despite service, on behalf of the respondents at the time of call.
2. Affidavit-of-service filed today be kept on record.
3. By an order dated October 3, 2024, a coordinate Bench of this Court had dismissed the appeal in view of the appellants and the respondent no. 2 not being represented on the said date, simultaneously vacating the interim order as well as observing that the appeal was treated to be abated as against respondent no. 1.
4. Learned counsel for the appellants submits that after the admission of the appeal, the appellants had no reason to apprehend that the matter would again be listed before a Division Bench, since the established practice of this court

is that after admission, a second appeal and the connected applications are heard by a learned Single Judge.

5. Secondly, since no application for substitution after setting aside abatement on condonation of delay could be taken out on the demise of respondent no. 1 due to the appeal itself having been dismissed for default, leave is sought by the appellants to file such application upon recall of the order.

6. We find sufficient explanation for the absence of the appellants on the relevant date from the application bearing CAN 3 of 2025. Accordingly, CAN 3 of 2025 is allowed, thereby recalling the order dated October 3, 2024 inasmuch as SAT 46 of 2017 was dismissed for non-appearance of the appellants and the interim order then subsisting being vacated.

7. However, we retain the observation in the said order to the effect that the appeal has abated as against respondent no. 1, subject to the appellants filing an appropriate application for substitution after setting aside abatement on condonation of delay in respect of the said deceased respondent no. 1, for which leave is hereby granted to the appellants.

8. Accordingly, SAT 46 of 2017 is restored to its original file and number. The interim order

subsisting as on the date of the order dated October 3, 2024 is revived as on today.

9. The matter be placed before the appropriate learned Single Judge as and when an application for substitution after setting aside abatement on condonation of delay is filed, subject to the convenience of such Bench.

10. There will be no order as to costs.

11. The trial court records shall be brought again by special messenger, costs of which shall be deposited by the appellants within January 9, 2026.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)