

S/L 2
30.9.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 2565 of 2024
With
CAN 1 of 2024

Meghnad Singh Bhuiya & Ors.
Vs.
Jagat Singh Bhuiya & Ors.

Mr. Amal Krishna Saha
Mrs. Sulekha Mitra
Mr. Manas Kumar Das

...for the Petitioners.

Mr. Rwitendra Banerjee
Mr. Pawan Kumar Gupta

...for the Opposite Party Nos.1-9.

Affidavit of service and certified copy of the order of the learned Trial Judge filed on behalf of the petitioners, be kept with the record.

CAN 1 of 2024

This is an application under Section 146 of the Code of Civil Procedure praying leave to proceed against the heirs and legal representatives of the deceased opposite party no.4 who has died on June 24, 2024, i.e. after the order impugned was passed and before filing of the instant revisional application, under these circumstances, leave as prayed for, is granted, let the heirs and legal representatives of the deceased opposite party no.4, whose particulars have been set out in the cause-title of the said application be brought on record.

Department is directed to carry out the necessary amendment in the cause-title of the revisional application.

CAN 1 of 2024 is disposed of without any order as to costs.

CO 2565 of 2024

Mr. Rwitendra Banerjee, learned advocate appears on behalf of the opposite parties and undertakes to file vakalatnama on behalf of the opposite party nos. 4(a) to 4(d).

The order impugned dated May 20, 2024 passed by the learned District Judge, Purulia in the connected Miscellaneous Appeal No.7 of 2024 is under challenge.

The appeal Court below, by the order impugned, has stayed the operation of the order under challenge in the said appeal, which is amounting to allowing of the appeal itself at the threshold, as such, is not permissible, as has been held by this Court in the case of ***IN RE: GAUTAM KUMAR HADA*** reported in **1994 (1) ILR (Cal) 72** and in the case of ***MOBASSOR HOSSAIN & ORS. vs. SRI MANIK CHANDRA PAL & ORS.*** reported in **2005 (2) CLJ (Cal) 482.**

The order impugned, therefore, is not sustainable and is accordingly set aside.

The Appeal court below is requested to expedite the disposal of the said appeal.

Mr. Banerjee prays expeditious disposal of the application under Order VII Rule 11 of the Code filed by the opposite parties for rejection of the plaint of the connected suit, pending before the learned Trial Judge.

The said application, by its nature, demands expeditious disposal. The learned Trial Judge is requested to take steps for disposal of the said application expeditiously.

CO 2565 of 2024 is disposed of with the above observations without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Biswajit Basu, J.)