

26.02.2025
Item No.01
Court No.11
Avijit Mitra

**FMA 456 of 2005
with
IA No.CAN 1 of 2000 (Old No.CAN 7094 of 2000)
with
IA No.CAN 8 of 2019(Old No. CAN 3125 of 2019)
with
IA No.CAN 9 of 2024**

**Md. Masud Mallick
- Versus -
State of West Bengal & ors.**

Mr. Sounak Bhattacharya,
Mr. Pran Gopal Das
...for the appellant

Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata
...for the State respondents

Mr. Sanjib Seth
...for the respondent no.10

During the hearing, it was pointed out that the added respondent Nos. 9 and 10 have not been impleaded in the application IA No. CAN 9 of 2024. In this context, Mr. Bhattacharya, learned advocate appearing for the appellant, prays for leave to amend the cause title of IA No. CAN 9 of 2024 to include the said added respondents in the cause title of this application.

Such prayer is considered and allowed.

Liberty is given to the learned advocate-on-record of the application to amend the cause title to include those two left out added respondents as parties.

**In Re : IA No.CAN 8 of 2019 (Old No.CAN
3125 of 2019)**

This application has been taken out for recalling of the order dated 27th February, 2019.

Upon hearing the learned advocates appearing for the respective parties and upon perusal of the averments made in the application, we are satisfied with the explanation provided towards the absence of the learned advocate of the appellant on 27th February, 2019, when the appeal was dismissed for default.

Accordingly, the application is allowed and the order stands recalled and the appeal is restored to its original file and number.

Mr. Seth, learned advocate appearing for the respondent no.10 has pointed out that the added respondent no.9 has passed away since long back.

Needless to observe that the appeal stands abated so far as the added respondent no.9 is concerned.

In re :IA No.CAN 9 of 2024

Mr. Bhattacharya, inviting our attention to a communication from B.L. & L.R.O. to Md. Masud Mallick dated 13th August 2024, submits that this communication reveals that case file no. 25/BAR/92-93 was not available in the office of B.L. & L.R.O. He further submits that, in view of such communication, according to him, the appeal has become infructuous and as such, the appellant does not wish to proceed with this appeal.

However, without entering into the merits of the appeal, and solely based on the submission made on behalf of the appellant that the appeal has become infructuous and the appellant does not wish to proceed any further, the appeal and the connected application are dismissed as 'withdrawn'.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)