

03.1. 2025
item No.146
n.b.
ct. no. 24

SA 19 of 1993

with

IA No. CAN 1 of 2002(Old CAN 2726 of 2002)

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CAN 2 of 2024

Abul Kalam

Vs.

Debalok Dutta & Ors.

Md. Abdul Arim
Mr. Jahangir Hossain,
..... for the appellant.

Mr. Shambhunath Ray,
Mr. S. J. Hazra,
Ms. Tuhina Parvin,
Ms. Munmun Das,
Mr. Kazi Asif,

.... For the respondent no.1.

It is reported by the Registrar Administration(L&OM) that an application being CAN 2726 of 2002 was filed on March 26, 2002 for substitution consequent upon the death of the sole appellant. It has already been reported that the application is filed beyond time.

Learned advocate appearing on behalf of the respondent submits that the respondent is the plaintiff before the learned court below and the instant appeal is pending since 1991. He submits that the appeal has already been abated, so necessary order may be passed.

Learned counsel on behalf of the appellant seeks accommodation. It appears that the CAN 2726 of 2002 contains prayer for substitution of legal heirs of the sole

appellant namely, Abul Kalam, who died on September 20, 2001. The said application is yet to be disposed of. Admittedly, the CAN 1 of 2002 (Old CAN No. 2726 of 2002) was filed beyond the statutory period of limitation. No application for condonation of delay or setting aside the abatement was filed by the appellant. The instant matter is pending since long.

Considering the situation, it appears to me that in consequent upon the death of the sole appellant and after expiry of period of making substitution, according to law, the appeal has already been abated. No application for setting aside of abatement has been filed by the appellant or his representatives.

Considering the same, I find no justification of proceeding further with this matter. Accordingly, the second appeal being SA 19 of 1993, be and the same is disposed of as being abated.

Decree under challenge is hereby affirmed.

TCR, if received, be returned forthwith.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)