

18.06.2025
Ct. no.655
Sl. No.39
(Nandita)

SA 388 of 1997

Md. Latip Gazi & Ors.
Vs.
Saheb Ali Gazi (since deceased) represented by his
legal heirs Md. Barhan Gazi & Ors.

Mr. Rakib Hossain Khan

... for the Appellants

Mr. Suranjan Mondal,
Ms. Mousumi Biswas,
Mr. Amit Ray

... for the Respondents.

1. Learned Advocate appearing on behalf of the appellants is present.
2. Respondents are represented by the learned Advocate.
3. It is said by the learned Advocate appearing on behalf of the appellants that during pendency of this appeal both the appellants have expired and it is candidly submitted by the learned Advocate that the heirs/legal representatives of those appellants could not be substituted in place and stead of those deceased appellants within the stipulated period of time as enshrined in the act.
4. An application on behalf of the respondents is taken out by stating that during pendency of this appeal the respondent nos. 1(Ka), 2, 3, 4, 10, 12(Ka), 13 and 14(Ka) were expired and intimation was sent to the

appellants and their learned Advocate by letter dated July 3, 2025.

5. Despite getting such intimation, no steps have been taken on behalf of the heirs/legal representatives of the deceased appellants. Once the statutory period lapses without any action by the appellant to bring LR's on record, abatement takes place automatically. Automatic abatement is a statutory consequence that arises due to the failure to take timely steps upon the death of parties to the case. It is self-operating and does not require any court declaration. As both the appellants and respondents as mentioned above have already been died during pendency of appeal and no step has been taken on behalf of the appellants to substitute their heirs/legal representatives in place and stead of the deceased parties, the present appeal stands abated against them.
6. Accordingly, the instant appeal be and the same is dismissed as abated.
7. Let a copy of this order along with the Trial Court Records be sent down to the Trial Court immediately.
8. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Prasenjit Biswas, J.)