

ASR 9.
Ct. no. 24.
28.03.2025

SA 44 of 2023

**Biswanath Sau
Vs.
Krishnendu Bhattacharya & Ors.**

Learned counsel appearing on behalf of the respondents submits that this matter appear under the heading 'To Be Mentioned' at his instance.

Before mentioning the matter, he has served registered notice upon the appellant personally.

The registered consignment has returned with a remark "deceased".

He has also placed the track record, it also proved that the appellant has expired. The affidavit of service filed on behalf of the respondent is taken on record.

Learned counsel for the respondents submits that the appellant has expired in the month of December, 2023. Since no step has been taken.

Learned counsel for the respondents intends to serve the notice of mentioning upon the learned counsel for the appellant but he did not take the notice as he has no instruction.

Having heard learned counsel for the respondent also considering the remarks in the track record as well as the registered consignment, it appears that the sole

appellant has already been expired. No step has been taken by the appellant or his representatives.

Accordingly, the instant appeal has already been abated.

Let the order of abatement be taken on record.

Let the matter go out of the list.

In the consequences of the fact that the order of abatement has already been taken on record which is automatically in nature. The appeal has already been lost its force, so any interim order passed by this court during the pendency of the instant appeal is hereby also vacated.

TCR, if received by this court during the pendency of the instant second appeal be returned back to the learned court below immediately.

[Subhendu Samanta, J]