

28<sup>th</sup> January,  
2025  
(AK)  
17

**F.A. 10 of 2025**  
**IA No: CAN 1 of 2023**  
**CAN 2 of 2024**  
**CAN 3 of 2024**

Aloke Sarkar and another  
Vs.  
Suchetana Ray and others

Mr. Shayak Chakraborty  
...for the appellants.

Ms. Sanjukta Majumdar  
...for the respondent no.1.

**In Re: CAN 3 of 2024**

1. CAN 3 of 2024 is taken up first for hearing in view of the nature of the application.
2. The application has been filed for appropriate orders in the nature of one under Order XXII Rule 10A of the Code of Civil Procedure.
3. The learned counsel for the appellants submits that the respondent no.1 is the daughter and sole heir and legal representative of respondent no.6, the latter being the father of the respondent no.1.
4. The respondent no.6 has died during pendency of the appeal, prompting the appellants to file the present application.
5. We find from the averments made in the application that in view of respondent no.1, the sole heir and legal representative of the deceased respondent

no.6, being already on record, no further substitution needs to be directed.

6. Accordingly, CAN 3 of 2024 is allowed, thereby directing the name of the deceased respondent no.6 to be expunged and recording that respondent no.1, the sole heir of the said deceased, is already on record.

**In Re: CAN 1 of 2023**

7. In view of the nature of the order now proposed to be passed and in view of the fact that the appeal is against the dismissal of a suit, there is no scope of passing any stay order.
8. Accordingly CAN 1 of 2023 is dismissed as not maintainable.

**In Re: CAN 2 of 2024**

9. CAN 2 of 2024 is now taken up for hearing.
10. Learned counsel for the appellants as well as learned counsel for the respondent no.1 submits that the said parties have entered into a mutual settlement and want to have the appeal disposed of in the light of such settlement.
11. The brief conspectus of the case is that the appellant no.1 was previously married to respondent no.1.
12. Subsequently after the said marriage being dissolved by a decree of divorce, the appellant no.1 entered into nuptial bond with appellant no.2.

13. Thereafter, the respondent no.1 apparently gave out that she had remarried appellant no.1 Alope Sarkar, which necessitated the filing of the suit, bearing Title Suit No.2420 of 2016, which is the genesis of the present appeal.
14. In the said suit, the appellants, *inter alia*, sought a declaration that the plaintiffs/appellants are a legally married couple and they are living as husband and wife since their marriage on December 11, 2012, solemnized under the provisions of the Special Marriage Act, 1954, a declaration that the marriage allegedly and purportedly claimed to have been solemnized and certified on August 25, 2012 between the plaintiff/appellant no.1 and the defendant/respondent no.1 was never held or solemnized, for a further decree of declaration that the defendant nos.1 and 3 to 6, in collusion with each other, have manufactured and procured the certificate of marriage dated August 25, 2012 as well as other consequential reliefs.
15. The appellants now submit that they want to withdraw all allegations against the defendant/respondent nos.2 to 6 unconditionally and do not want to proceed any further with the appeal as against the said respondents.

16. Learned counsel for the appellants submits that since the main relief sought in the suit and the dispute in the present appeal is between the appellants and the respondent no.1 and the other respondents were only impleaded consequentially, as proper parties, the purpose of justice would be sub-served in the event the present appeal itself is disposed of in terms of the settlement arrived at between the appellants and the respondent no.1 to the effect that the respondent no.1 agrees, admits and concedes that no marriage took place between the appellant no.1 and the respondent no.1 after their divorce was granted on August 30, 2011 and the respondent no.1 withdraws all claims to the contrary.
17. The respondent no.1 also acknowledges that her words and actions have caused hurt and loss of reputation to the appellant nos. 1 and 2 for which she tenders unconditional apology to the appellants and that her unfounded claim to have been remarried with the appellant no.1 after their divorce on August 30, 2011 may unintentionally have caused irreparable loss to the reputation of the appellants, thus affecting them adversely, for which she also tenders apology to the appellants.
18. The appellants also agree to withdraw all claims for damages against the respondents and agree to have

the terms of settlement as the basis for disposal of the pending litigation including the present appeal.

19. Such terms of settlement have been reduced into writing and have been annexed as Annexure-A to the present application.
20. We find from the said terms that those are within the confines of law and in proper form.
21. As such, since the primary contesting parties have already arrived at a settlement, it only remains for the court to acknowledge such terms and dispose of the first appeal in terms of such settlement.
22. Accordingly, CAN 2 of 2024 is allowed.
23. As a consequence, F.A. 10 of 2025 is disposed of in terms of the settlement arrived at between the appellant nos.1 and 2 and the respondent no.1, as reduced in writing and annexed as Annexure-A to CAN 2 of 2024, which (Annexure A) is also treated to be a part of the present decree.
24. Insofar as the appeal against the other respondents being respondent nos.2 to 5, is concerned, the appeal is deemed to stand dismissed for non-prosecution against the said respondents.
25. Insofar as the deceased respondent no. 6 is concerned, it is hereby recorded that the appellants withdraw all allegations made against the said deceased.
26. There will be no order as to costs.

27. A formal decree be drawn up accordingly.

**(Sabyasachi Bhattacharyya, J.)**

**(Uday Kumar, J.)**