

17.06.2025
SI No.6
Court No.8
(gc)

**FA 265 of 2009
CAN 5 of 2024**

**State of West Bengal
Vs.
Shew Charan Shaw**

Ms. Nibedita Pal,
Ms. Sonam Ray

...for the Applicants.

Re: CAN 5 of 2024

1. In spite of service upon the Land Acquisition Collector, Purulia, the said authority is not represented.
2. In the application filed by the legal heirs of the award-holder, a letter dated 11th February, 2010 is disclosed whereby the attempt was made to inform the learned Advocate for the State of West Bengal the death of the award-holder and the name of the legal heirs required to be brought on record in the appeal was furnished. In paragraph 3 of the said communication, it was stated that an application under Order 22 Rule 3, C.P.C. has already been filed by the legal heirs of the deceased on 25th January, 2010 in L.A. Reference Execution Case No.14 of 1998. Although, it appears that the said letter could not be served upon Mr. Bishnupada Pariari, learned Advocate for the State of West Bengal

due to continuous unavailability and it is claimed that several attempts have been made to serve such notice. The fact remains that this application was served upon the Land Acquisition Collector, Purulia in order to enable him to make effective representation and rebut the statements made in the said application with regard to the date of knowledge of the death of the original award-holder. In spite of notice, the said respondent is not represented, nor any affidavit is filed denying that the authorities had knowledge of the death of the original award-holder and the names of the legal representatives were never communicated. The existence of the application filed by the present applicants on 25th January, 2010 in L.A. Reference Execution Case No.14 of 1998 is not denied. In absence of any contrary averment, it can be safely presumed that authorities were aware of the death of the award-holder and the names of the legal heirs and representatives who have succeeded to the estate of the deceased after his demise were duly communicated. This factual aspect appears to be known to the L.A. Collector on 25th January, 2010 and they seem to possess all the required informations about the legal

heirs or representatives of the deceased.

However, no attempt has been made to file an application for substitution in time.

3. During the pendency of the appeal, the award-holder has received 50% of the awarded sum on furnishing indemnity bond.
4. The State is not represented for quite some time. Even on the earlier occasion, the State was not present. Affidavit-of-service would show that the L.A. Collector is aware of this proceeding.
5. On such consideration, the application being CAN 5 of 2024 is allowed and the appeal is dismissed as abated.
6. In view thereof, the learned Registrar General, High Court at Calcutta is directed to release the balance amount with accrued interest in favour of the applicant nos.1, 2 and 3 respectively and the legal heirs of the deceased son, namely, Dilip Gupta, being the applicant nos.4, 5 and 6 in equal proportion upon proper identification within eight weeks from the date of communication of this order. The indemnity bond stands discharged.
7. However, there shall be no order as to costs.

8. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Smita Das De, J.)