

APOT/220/2025
IN
CS/136/2010

IA NO: GA/1/2025

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

MUKESH KUMAR JAIN AND ANR.
VS
SRI DILIP KUMAR MODI AND ORS.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
And
The Hon'ble JUSTICE OM NARAYAN RAI
Date : September 3, 2025

Appearance:
Mr. Jishnu Chowdhury, Sr. Adv.
Mr. Biswajit Ghosh, Adv.
Mr. Avirup Chatterjee, Adv.
Mr. Rishav Das, Adv.
..for the appellants

Mr. Suvashis Sengupta, Adv.
Mr. Shounak Mukhopadhyay, Adv.
Mr. Dhiraj Kr. Gupta, Adv.
Mr. Swarup Saha, Adv.
..for the respondents

Dictated by Arijit Banerjee, J.

The Court: This appeal is directed against a judgment and order dated July 16, 2025, whereby an application filed for impleadment as

defendant by one Priyabrata Chakraborty in CS/136/2010, being a suit filed by the appellants herein, has been allowed by the Learned Single Judge. Sri Priyabrata Chakraborty has been directed to be added as a defendant in the suit. Being aggrieved, the plaintiffs are before us.

Learned Senior Counsel representing the appellants/plaintiffs says that the application filed by Priyabrata was not maintainable. This is because a similar application filed by his predecessor-in-interest was dismissed for default. The proper course of action for Priyabrata would have been to have that application restored and to proceed with the same.

We see from the order impugned that such point of maintainability has been noted by the Learned Single Judge but has not been decided.

Hence, without touching the merits of Priyabrata's application, we remand the matter to the Learned Single Judge for deciding Priyabrata's application afresh in accordance with law. All points are left open. We request the Learned Judge to decide the point of maintainability first.

The appeal and the application stand disposed of.

(ARIJIT BANERJEE, J.)

(OM NARAYAN RAI, J.)

bp.