IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Supratim Bhattacharya

C.O.240 of 2026

RAGHUNATHPUR-HIJULI(I) NO.GRAM PANCHAYET & ORS.
-Vs-
SUBODH KUMAR BISWAS.

For the Petitioner	**:**	Mr. Sunny Nandy, Ms. Oindrila Ghosal,
For the Opposite Party	**:**	Mr. Shaunak Ghosh, Ms. Shreyashi Maity.
Heard on	**:**	14.10.2026
Delivered on	**:**	**14.10.2026**

Supratim Bhattacharya, J. :

1. The backdrop of the present lis is that a dispute arose between the contending parties involving 16.5 decimals of land along with residential house.

2. The opposite party herein preferred a title suit no.53 of 2011 seeking declaration and permanent injunction against five(5) defendants. Out of the five(5) defendants the defendant no.4 namely Premangshu alias Naru Sarkar expired on 31.10.2019. The said defendant no.4 was not substituted and subsequently an application dated 01.11.2025 was filed by the opposite party/plaintiff seeking expunging the name of the said defendant no.4.

3. Subsequently, vide order no.94 dated 17.11.2025 the said prayer seeking expunging the name of the defendant No. 4 before the Trial Court having been allowed the petitioners/defendants have preferred the present civil revisional application.

4. The learned advocate representing the petitioners submits that as substitution has not been sought for during the statutory period of 90(Ninety) days from the date of death of the said defendant no.4 as such the suit has abated against all.

5. She has relied upon a judgment passed by the Hon'ble Bombay High Court in the case of ***Jayalaxmi Janardhan Walawalkar & Ors Vs. LilaChand Laxmichand Kapasi & Ors*** published at ***[1998 SCC Online Bom 354]*** and submitted that the impugned order is not correct in the eye of law and requires interference.

6. Per contra, the learned advocate representing the opposite party-plaintiff submits that the opposite party-plaintiff had sought for expunging the name of the defendant no.4 and apart from that nothing more had been sought. No substitution was sought for in respect of the defendant no.4.

7. In such circumstance, the impugned order is in accordance with law and does not require interference.

8. From the contention of the learned advocates representing the petitioners and the opposite party it transpires that there has been a dispute involving some land along with residential structure as such a suit for declaration, permanent injunction and mandatory injunction has been sought for, wherein one of the defendants that is defendant no.4 namely Premangshu alias Naru Sarkar has expired on 31.10.2019 and the said defendant has not been sought to be substituted, instead after a

gap of six(6) years that is on 11.11.2025, the plaintiff has sought for expunging the name of the defendant no.4 since deceased.

9. Through the impugned order the learned Trial Judge has allowed the said prayer expunging the name of the said defendant.

10. Through the impugned order no substitution has been allowed instead only expunging of the deceased defendant has been allowed.

11. As cause of action subsists against the other defendants, so the suit in entirety will not abate.

12. In such circumstance, this Court is of the view that there has not been any error in the eye of law in passing the impugned order and the impugned order is not required to be interfered with.

13. In such circumstance, the present civil revisional application **CO 240 of 2026** is dismissed.

14. Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

(Supratim Bhattacharya,. J)