

06.02.2026
Court No. 06
Item No. 79
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 1226 of 2025
I.A. No : CAN 2 of 2026

Sri Amit Kumar Das Mahapatra
(Chowdhury) & Ors.
-Versus-

Sri Asim Kumar Das Mahapatra
(Chowdhury) & Anr.

Mrs. Usha Maiti,
Mr. Sukanta Das

.....for the petitioners

Re : CAN 2 of 2026

- 1) Affidavit of service filed on behalf of the petitioners be kept with the record. None appears for the opposite parties.
- 2) This is an application for recording of death of the defendant/opposite party no. 1 and to expunge his name from the cause title of the revisional application, who died intestate on December 31, 2025.
- 3) The application has been served upon the opposite parties. Despite service, the opposite parties are not appearing before this Court.
- 4) It is submitted that the plaintiffs are the sole heirs of the defendant no. 1, who died intestate leaving behind the plaintiffs. They are already on record and as such death of the defendant no. 1 must be recorded. The application is allowed.

5) The name of the defendant no. 1 be struck off from the array of the defendants/opposite parties in this application.

6) It is also submitted that the said defendant died as a bachelor.

Re : C.O. 1226 of 2025

1) The revisional application has been filed only on the technical ground that although the learned Court recorded the suit did not abate as a whole, the application under Order 22 Rule 9 of the Code of Civil Procedure has been kept pending.

2) According to Mrs. Maity, the said application should have been disposed of upon setting aside the abatement in respect of the plaintiff no. 7 upon condonation of delay and by bringing on record the heirs of the plaintiff no. 7.

3) Despite service, none appears on behalf of the opposite party no. 1, who is the sole defendant in the suit.

4) I do not find any material irregularity in the order impugned, except that, a technical problem has cropped up in the matter. The application under Order 22 Rule 9 of the Code of Civil Procedure had not been disposed of. Accordingly, this Court directs that the application under Order 22 Rule 9 of the Code, which was filed by the plaintiffs for setting aside abatement upon condonation of delay and substitution of the heirs and legal representatives in respect of the plaintiff no. 7, be allowed. Similar order was already passed by the learned Court. The amended plaint with

the proper cause title will be filed within a period of three weeks from date of communication of this order and the Court shall proceed in accordance with law. The death of the defendant/opposite party No. 1 shall be recorded as directed by this Court.

5) Accordingly, the revisional application is disposed of without any order as to costs.

6) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)