

11.05.2026.
Court No. 13
Item No. 5.
sp/pk

F.M.A. No. 1253 of 2021

With

CAN 2 of 2022

With

CAN 3 of 2025

With

CAN 4 of 2025

Shri Suprakash Maity & Ors.

Versus

The Sabhapati, Midnapore District Prathamik School
Samsad, Midnapore (now Paschim Medinipur) & Ors.

Mr. Soumen Kr. Dutta,
Mr. Subham Dutta.

..for the appellants.

Re: CAN 2 of 2022

1. Despite service of notice, the respondents are not represented. Affidavit of service filed in Court is taken on record.
2. CAN 2 of 2022 is an application for expunging the name of Ajit Kumar Kala, who died on 18.01.2018, Bimal Chand Bera, who died on 01.12.2017, Bimal Kumar Mishra, who died on 12.06.2020, Ranjit Kumar Bera, who died on 20.02.2022, trustee appellants.
3. Let the names of the aforesaid Ajit Kumar Kala, Bimal Chand Bera, Bimal Kumar Mishra, and Ranjit Kumar Bera from the array of appellants trustees.
4. In view of the above, CAN 2 of 2022 is allowed and disposed of.

Re: CAN 3 of 2025

5. CAN 3 of 2025 is an application for deletion of the name of respondent no. 7, Sree Haraprasad

Tripathi, Headmaster of Kanthi Harishabha Prathamik Vidyalaya, who died on 12th January, 2025.

6. Let the name of respondent no. 7 stand deleted from the record of the instant proceeding as respondent.

7. In view of the above, CAN 3 of 2025 is allowed and disposed of.

Re: CAN 4 of 2025

8. CAN 4 of 2025 is an application for substitution of the name of the new headmaster of the Kanthi Harisabha Prathamik Vidyalaya in place of the deceased respondent no. 7.

9. Let Shri Manisankar Maity be substituted as respondent no. 1(a) in place and stead of the deceased original respondent no. 7.

10. CAN 4 of 2025 is disposed of.

Re: FMA 1253 of 2021

11. The respondents are not represented.

12. It seems that the respondents/defendants in the main suit are no more interested to defend with the instant appeal. Since the issue as to whether the school was a licensees or tenant has been comprehensively decided by the First Court, Contai, the impugned order of remand permitting the defendant tenant to amend its written statement even without an formal application, is therefore ex facie erroneous.

13. It is submitted by Mr. Soumen Kumar Dutta, learned counsel for the appellants that the school has shifted outside the trust property into a nearby constructed building. The respondents may not be interested in defending the appeal.
14. The impugned judgment and order dated 28.04.2017 shall stand set aside.
15. The decree of the trial court dated 19.08.2009 passed by the learned Civil Judge (Junior Division), 1st Court, Contai in T. S. No. 274 of 2001 is restored.
16. FMA 1253 of 2021 is therefore allowed and disposed of. Consequently all pending applications are also disposed of.
17. There shall be no order as to costs.
18. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Rai Chattopadhyay, J.)