13.11.2026
Ct. No.655
Sl. No. 93
Subadip

SA 681 of 1996
+
CAN 1 of 2025
CAN 2 of 2025

Bhuthnath Mondal & Ors
Vs.
Nakul Mondal

Mr. M. Maity,
Ms. Manika Sarkar.
...for the respondent

1. None appears on behalf of the appellants.

2. Learned advocate on behalf of the heirs/legal representatives of the deceased sole respondent is present.

3. The learned Advocate appearing on behalf of the heirs/legal representatives of the deceased sole respondent submits that, during pendency of the present appeal, the sole respondent passed away. It is further submitted that, despite having knowledge of the death of the sole respondent, the appellant failed to take any steps for substitution of the heirs/legal representatives of the deceased respondent within the period prescribed under the relevant provisions of law. Consequently, the appeal has abated on account of non-substitution of the heirs/legal representatives of the deceased sole respondent within the stipulated period.

4. It is further contended by the learned Advocate that, as the appellant did not take any step for

substitution in accordance with the provisions of Order XXII of the Code of Civil Procedure, the respondent subsequently filed an application under Order I Rule 10 of the Code of Civil Procedure, seeking addition of the heirs/legal representatives of the deceased sole respondent as parties to the present proceeding. Such an application cannot be treated as a substitute for an application seeking substitution under Order XXII of the Code of Civil Procedure, particularly when the appeal has already been abated by operation of law owing to the failure of the appellant to take steps within the prescribed period.

5. In the absence of any appropriate application for setting aside the abatement and for bringing the heirs/legal representatives of the deceased sole respondent on record, the abatement continues to operate. Since the sole respondent was the only respondent in the present appeal, the abatement thereof results in the abatement of the appeal in its entirety.

6. In view of the foregoing discussion, this Court is of the considered opinion that the present appeal has abated in its entirety owing to the failure of the appellant to take necessary steps for substitution of the heirs/legal representatives of the deceased sole respondent within the prescribed period.

7. Accordingly, the instant appeal stands dismissed as abated.

8. Consequently, the application filed on behalf of the heirs/legal representatives of the deceased sole respondent, having become infructuous in view of the aforesaid order, stands disposed of accordingly.

9. Let a copy of this order, together with the Trial Court Records, be transmitted to the learned Trial Court forthwith.

10. Consequently, all connected applications, if any, filed in connection with the present appeal, also stand disposed of in view of the dismissal of the appeal as abated.

11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.

(Prasenjit Biswas, J.)