

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE**

**APOT/68/2026
WITH CS/31/2019
IA No.GA/1/2026
GA/2/2026**

SMT. BINA DEBI BAGARIA AND ORS.

-VERSUS-

RUCHIR BAGARIA AND ORS.

**APOT/69/2026
WITH CS/31/2019
IA No.GA/1/2026
GA/2/2026**

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Present :

The Hon'ble Justice Debangsu Basak

-And-

The Hon'ble Justice Md. Shabbar Rashidi

For the Appellant No.4 : Mr. Ajay Kumar Bagaria, (In person)

For the KMC : Mr. Biswajit Mukherjee, Adv.
Mr. Altamas Alim, Adv.

For the EPF Authority : Mr. Sujit Mitra, Adv.

For the Respondent Nos.1 to 5 : Ms. Akansha Mukherjee, Adv.

HEARD ON : 06.05.2026

DELIVERED ON : 06.05.2026

DEBANGSU BASAK, J.:-

1. Two appeals are taken up for analogous hearing as they emanate out of two orders passed in the same suit. APOT/68/2026 is directed against the order dated March 9, 2026 passed in IA No.GA/6/2025; whereas, APOT/69/2026 is directed against the order dated March 9, 2026 passed in IA No.GA/7/2025.
2. Appeals are at the behest of plaintiffs Nos. 1(a) to 1(d). There are four appellants. They are not represented by any Advocate.
3. Plaintiff no.1(d) appears in person. He claims that he possesses power of attorney to represent the other three plaintiffs/appellants.
4. We perused the memorandum of appeal in both the appeals. We find that, the memorandum of appeal in both of the appeals speaks of appeal being preferred by the plaintiff 1(d). Memoranda of appeal are, therefore, not by all the four appellants, but is limited to the appellant no.4 only.
5. Stay petition is affirmed by the plaintiff 1(d). He claims that he is the appellant No. 4 of the present appeals. He claims that affidavit of competency was filed earlier.
6. Again, from the affidavit verifying the stay petition it does not appear that the appeals are at the behest of the four appellants rather it is limited to only one appellant.

7. We take into consideration the decision of the Division Bench of the Gujarat High Court reported in **AIR 2001 Guj. 279 (Jaymal Thankore vs. Gujarat State Charity Commissioner, Ahmedabad & Ors.)**. There the Gujarat High Court dealt with the right of a chartered accountant to represent a litigant in a Court of law on the basis of the power of attorney. It is apposite to refer to paragraphs 12 to 16 thereof which are as follows:

"12. Having thus considered the nature of proceedings before the Charity Commissioner and the procedure of Code of Civil Procedure that he has to follow in taking a decision in the matter of framing of a scheme of management under Section 50A, the right of parties and their agents to participate in the proceedings before him have to be examined. As has been pointed out above, the Civil Procedure Code is applicable in the proceedings before the Charity Commissioner for recording evidence and for allowing appearance of the parties. The provisions of Order III, Rule 1 of the C.P.C. allow appearances, filing of applications and acts by the parties, by their recognised agents and pleaders in the manner laid down therein. Order III, Rule 1 uses three different expressions having three different connotations, i.e. "party in person", "recognised agent" and "pleader". The relevant provisions of Order III, Rules 1 and 2 read as under :-

"RECOGNIZED AGENTS AND PLEADERS

1. Appearances, etc. may be in person, by recognized agent or by pleader :- Any appearance, application or act in or to any Court, required or authorized by law to be made or done by a party in such Court, may, except where otherwise expressly provided by any law for the time-being in force, be made or done by the party in person, or by his recognized agent, or by a pleader appearing, applying or acting, as the case may be, on his behalf :

Provided that any such appearance shall, if the Court so directs, be made by the party in person.

2. Recognized agents :- The recognized agents of parties by whom such appearances, applications and acts may be made or done are :-

(a) persons holding powers-of-attorney, authorizing them to make and do such appearances, applications and acts on behalf of such parties;

(b) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts."

13. *What is to be noticed from the provisions of Rule 1 of Order III quoted above is that the appearances, applications or acts in the Court are to be done by the party in person or by his recognised agent or by a pleader. Under Rule 2 of Order HI "recognised agents" have been described to be those persons holding power of Attorney from the party authorising them to make such appearances and file such applications or do prescribed acts. The Legislature and the Courts have distinguished "recognised agent" from a "pleader". The expression "pleader" wherever used in the Code including in Rule 1 has to be understood as per the definition clause contained in Section 2(15) of the C.P.C. which defines pleader as under to include an Advocate, Vakil and Attorney of a High Court :*

"2. Definitions :- In this Act, unless there is anything repugnant in the subject or context --

(1) to (14) xxx (15) "pleader" means any person entitled to appear and plead for another in Court, and includes an Advocate, a Vakil and an Attorney of a High Court;

(16) to (20) xxx"

14. *The provisions of Order III, Rule 1 and 2 repeatedly came for construction and application before law Courts in civil proceedings. For the purpose of this case, reference to one of the earlier decisions of Chhagla, C.J., in Aswin Shambhuprasad Patel & Ors. v. National Rayon Corporation Ltd., AIR 1955 Bom. 262 would be profitable. Construing the provisions of Order III, Rule 1, it was held that the expression "appearance, application or act" in or to any Court in Order III, Rule 1 of C.P.C. does not include pleading. The recognised agent under power of attorney from the party in his favour may appear, file an application or act on behalf of the party in the proceedings as "recognised agent" of the party. Such power or -- authority to appear, file application and act is also available to a 'pleader', but to plead in the case, that is to do something for the party in the case other than what the 'recognised agent' can do, that is to practice law or plead for the client, is the monopoly right only of a pleader or a registered Advocate. A 'recognised agent' appointed by a party may be holding a duly executed Power of Attorney cannot be said to be a 'pleader' and can have no right to plead. The provisions of Advocates Act, 1961 confers a monopoly right of pleading and practising law only on enrolled or registered Advocates. Section 30 of the Advocates Act confers such a right to practice on a 'pleader' and/or 'Advocate' after he gets himself enrolled as such. Section 30 reads :-*

"30. Right of Advocates to practise :- Subject to the provisions of the Act, every Advocate whose name is entered in the State roll shall be entitled as of right to practise throughout the Territories to which this Act extends, -

(i) in all Courts including the Supreme Court;

(ii) before any Tribunal or person legally authorized to take evidence; and (iii) before any other authority or person before whom such Advocate is by or under any law for the time-being in force entitled to practise."

15. *Section 33 of the Advocates Act confers an exclusive and monopoly right on the enrolled Advocate or pleader to plead and practice in Court of law. The said provision contained in Section 33 reads :*

"33. Advocates alone entitled to practise :- Except as otherwise provided in this Act or in any other law for the time-being in force, no person shall, on or after the appointed day, be entitled to practice in any Court or before any authority or person unless he is enrolled as an Advocate under this Act."

16. *The provisions of Section 32 of the Advocates Act are also required to be noticed in this context which reserves a discretion and power to the Court only to permit appearances to any non-Advocate for a party. It may be noted that Section 32 also does not confer any power and discretion on the Court to permit any non-Advocate to plead or practise law in a Court. Section 32 restricts the powers of the Court to permit any non-Advocate only to appear on behalf of a party. See the language of Section 32 quoted hereunder:*

"32. Power of Court to permit appearances in particular cases :- Notwithstanding anything contained in this chapter, any Court, authority or person may permit any person, not enrolled as an Advocate under this Act, to appear before it or him in any particular case."

8. Right of a party in a criminal proceeding to represent himself by a non-advocate was considered by the Supreme Court in **AIR 1978 SC 1019 (Harishankar Rastogi -Vs- Giridhari Sharma And Another)**. Supreme Court held that, a pleader within the meaning of Section 2(q) of the Criminal Procedure Code, includes any person other than one authorised by law to practise in a Court if he is appointed with the permission of the Court, to act in a particular proceeding. It also held that, a private person, who is not an advocate, does not possess any right to enter Court and claim to argue for a party. Such person must obtain prior permission of the Court for which a motion must

come from the party itself. It is open to the Court to grant or withhold permission in its discretion. In fact, the Court may even after grant of permission, withdraw it halfway, if the representative proves himself reprehensible.

9. Before us, the appellant no.4 is not an advocate by profession. There is no application before us made by any of the parties to the appeal, to allow representative through the appellant no.4. We are considering appeals against orders passed in a Civil Suit.
10. A person who is not enrolled as an Advocate is not entitled to plead or act as an advocate in a Court of law, as a matter of right, on the basis of a power of attorney or being appointed as a constituted authority. Such person however may be granted permission to do so, by the Court, for cogent reasons to be recorded. Permission, if granted, is not all pervasive. It can be recalled at any stage by the Court. Permission must be sought for not only by the person seeking to represent a party but also by the party itself.
11. The appellant No. 4 as a person not being enrolled as an Advocate is not entitled to represent the other three appellants in these appeals. The other appellants did not apply for permission for they being represented by the appellant No. 4. The other three appellants are ladies and entitled to legal aid. The issue of legal aid for them was discussed in Court on previous occasions when the appeals were

adjourned to allow the appellants to take appropriate steps. They did not opt for legal aid.

12. Corporation, Provident Fund authorities and respondent nos. 1 to 5 are represented by their advocates.
13. Learned advocate appearing for the Corporation submits that, there are dues of the Corporation in respect of the cinema hall for decades which remain unpaid. He submits that, corporation was roped into the suit unnecessarily. There is a writ petition pending with regard thereto.
14. Learned advocate appearing for the respondent nos. 1 to 5 submits that, her client does not object to the appointment of the Special Officer so long the appellant bears the costs and expenses thereof.
15. By the impugned order passed in GA 6 of 2025 learned Single Judge, disposed of the application for appointment of Special Officer by holding that issue relating to municipal rates and taxes cannot be gone into by the Receiver who may be appointed in the suit, since, a writ petition challenging the act and conduct of the Corporation is pending.
16. On merits, we do not find, learned Trial Judge erred in passing the impugned order passed in GA 6 of 2025 as a parallel proceeding is pending.
17. By the impugned order in GA 7 of 2025 learned Single Judge has dismissed the application for adding various persons into the suit. We

find from the records that, and as held correctly by the learned Single Judge that, the suit was inter se between partners and a successor-in-interest of partners in a partnership firm. The persons sought to be added were a former employee of such firm, the Regional Provident Fund Commissioner and the son of the erstwhile Receiver. Learned Single Judge correctly held that, the persons or any of those parties sought to be added were neither necessary nor proper.

18. By the impugned order, learned Trial Judge, dismissed IA GA/7/2025 after recording the finding that the presence of a former employee of the partnership firm or Regional Provident Fund Commissioner or the son of the Receiver, is not necessary for the adjudication of the disputes nor any relief has been sought for against anyone of them. Learned Judge held that they are neither necessary nor proper party to the suit.
19. We do not find any materials to come to a finding other than what the learned Single Judge returned with regard to the application for addition of parties.
20. The parties sought to be added, are neither necessary nor proper parties given the scope and ambit of the suit.
21. So far as maintainability of the present appeals are concerned, we do not find them maintainable in the manner and form that they were filed.

22. Since, the appeal as filed are held not to be maintainable the question of condonation of delay in making and filing the appeals does not arise.
23. As noted above, there is no permission sought from any Court by the person who is not an advocate to represent other appellants in Court.
24. APOT/68/2026 and APOT/69/2026 along with pending applications are dismissed, without any order as to costs.

(DEBANGSU BASAK, J.)

25. I agree.

(MD. SHABBAR RASHIDI, J.)