

(1920) 07 CAL CK 0027
In the Calcutta High Court

Kali Narayan Roy Choudury and Others	APPELLANT
Vs	
Haran Chandra Ghose and Others	RESPONDENT

Date of Decision : 15-07-1920

Acts Referred:

Citation : 62 Ind. Cas. 714

Hon'ble Judges : Asutosh Mookerjee, Acting C.J.; Ernest Fletcher, J

Bench : Division Bench

Judgement

Mookerjee, Acting C.J.

1. A preliminary objection has been taken on behalf of the respondent that in the events which have happened the suit cannot proceed: It is pointed out in the first place that one of the respondents, Banu Chand Bibi, died more than six months ago and no one has been substituted in her place. It is further pointed out that two infants, Jahiruddin and Rajani Pal, are not represented here. It is not disputed that these allegations are well founded, It has been suggested, however, that the appeal can proceed in the absence of these parties. We are unable to entertain this view: The suit as framed was a suit for damages for tort against all wrong doers, and it is not open to the plaintiff-appellant to contend that he can now proceed against some of them at his choice.

2. The result is that this appeal is dismissed with costs.

Fletcher, J.

3. I agree.