

(1906) 05 CAL CK 0003

In the Calcutta High Court

Case No : Appeal from Appellate Decree No. 2159 of 1904

Tarip Dafadar and Another

APPELLANT

Vs

Khotejannessa Bibi and Others

RESPONDENT

Date of Decision : 30-05-1906

Acts Referred:

Citation : (1906) 05 CAL CK 0003

Final Decision : Dismissed

Judgement

1. A preliminary objection has been taken to the hearing of this appeal, namely, that one of the Plaintiffs, Respondents, died while the appeal was pending and that, notwithstanding the fact that liberty was given to the Appellants to bring on the record the heirs of the deceased Plaintiff, Respondent, before the hearing, they have taken no advantage of the permission given them and have not made the necessary substitution. The learned pleader for the Respondents calls attention to the case of Bejoy Gopal Bose v. Umesh Chandra Bose 6 C.W.N. 196 (1901). We think that the present case is on all fours with the case referred to and that, therefore, this appeal cannot proceed, but must fail by reason of defect of parties.

2. We accordingly dismiss the appeal with costs.