

(1927) 07 CAL CK 0043**Calcutta High Court****Case No:** None

Srimati Dintarini Devi and Others

APPELLANT

Vs

Ambica Prosad Sanyal and
Others

RESPONDENT

Date of Decision: July 6, 1927**Citation:** 105 Ind. Cas. 841**Hon'ble Judges:** Roy, J; B.B. Ghose, J**Bench:** Division Bench**Judgement**

1. A preliminary objection has been taken that the original appellant being dead, the persons who have been substituted in the place of the deceased appellant have no right to carry on the appeal as her heirs. The plaintiff-appellant was a lady named Dintarini Debi. She died during the pendency of the appeal in this Court on the 11th February, 1926. The persons who got themselves substituted in her place are related to her as her husband's paternal uncle's daughter's daughter's sons. The objection taken on behalf of the respondents is that these persons cannot be the reversionary heirs, under the Hindu Law, of the husband of the original appellant and so have no right to carry on the appeal. This matter has been long settled that a daughter's daughter's son cannot be an heir under the Dayabhaga School of Hindu Law. If these substituted persons could not be the heirs of their mother's mother's father, surely they cannot be the reversionary heirs of an agnatic relation of their mother's mother's father. The last case to which our attention has been drawn in which this point was decided is that of Nepaldas Mukherjee Vs. Prophas Chandra Mukherjee and Others. The question being concluded by long established authority of cases which have been cited in that recent judgment, we must hold that the substituted appellants cannot continue the appeal. The appeal, therefore, has abated and must be dismissed with costs. As the matter has been disposed of on the preliminary point, we assess the hearing-fee at ten gold mohurs.