

Title Suit No. 25 of 2018

CIS No. 61 of 2018

CNR No. WBBK07-000074-2018

Present : Sri Tanumoy Karmakar (J.O. Code: WB01209)

Order no. 80

Dated 10-11-2025

Today is fixed for steps by the plaintiffs.

Memorandum of appearance filed by the plaintiffs and defendant no.1(ka) to 1(cha) & 2.

Ld. Counsel on behalf of the plaintiffs draws my attraction towards one application filed by the plaintiffs on 21-08-2025 under Order 22 Rule 3 of the CPC in respect of deceased plaintiff no.1.

Accordingly, the case record is taken up for hearing of the said application filed under Order 22 Rule 3 of the CPC.

Heard Ld. Counsels for both sides at length.

The crux of the application is that plaintiff no.1, namely, Sunil Kr. Kar had expired on 19-03-2025 leaving behind his legal heir and successor as Snehajit Kar, being his son and plaintiffs intend to substitute the legal heir of deceased plaintiff no.1 in this instant suit.

Fresh *vakalatnama* has already been filed in respect of the applicant/petitioner, i.e., the son of deceased plaintiff no.1.

It is pertinent to mention here that the instant suit has been filed for partition.

Accordingly, the legal heir of plaintiff no.1 is necessary parties in this suit because their civil right is connected with this instant suit and right to sue survives.

Considering the above noted circumstances, I find that I have no impediment to allow the application filed by the plaintiffs under Order 22 Rule 3 of the CPC.

Hence, it is,

Ordered,

that the application filed under Order 22 Rule 3 of the CPC is hereby allowed on contest, but without any order as to costs.

Let the legal heir of plaintiff no. 1 is hereby substituted.

Suit Clerk is directed to incorporate the facts in the cause title of the plaint as per schedule as mentioned in the application.

Accordingly, plaintiffs are directed to file typed substitute copy of plaint in the meantime.

Ld. Counsel on behalf of the plaintiffs also filed one application under Section 151 of the CPC *inter alia* stating that on the previous date inadvertently application under Order 22 Rule 4(4) of the CPC has been filed in respect of defendant no.15, though defendant no.15 is alive.

In this aspect Ld. Counsel for defendant no.1(ka) to 1(cha) & 2 raised no objection.

Considering the rule of natural justice and proper adjudication of the suit, the previous order, i.e., order no.78 dated 21-08-2025 is partly recalled only pertaining to defendant no.15.

Ld. Counsel on behalf of the defendants further submitted that defendant no.14 had expired during the pendency of the suit.

Accordingly, plaintiffs are directed to file proper steps in respect of deceased defendant no.14 in the meantime.

Fix **22-12-2025** for steps by the plaintiffs in respect of deceased defendant no.14 and filing typed revised copy of plaint.

Update CIS forthwith.

Dictated & Corrected by me.