

T.A. - 39/22(CNR:WBCC01-009624-2022)

Present: Smt Sonia Majumdar, Judge, Bench-II. (WB01128)

Order 12

07.05.25

Today is fixed for hearing petition of order 22 Rule 4 read with section 151 CPC dated 12.02.25 filed by the applicant and for hearing of petition u/o 41 Rule 27 read with section 151 of CPC filed by the appellants.

Appellants file hazira.

Heard the Ld. Advocate for the appellant. Perused the application, whereby the appellant has prayed for passing necessary orders for substituting the sons of the deceased sole respondent as his legal heirs and legal representatives in the cause title of the plaint, as the sole respondent is dead.

Ld. Advocate for the appellant submits that the sole respondent died on 18.01.25 and that he filed the application for substitution u/o 22 Rule 4 of CPC only on 12.02.2025. He has filed photocopy of death certificate of the sole respondent.

It appears that the appellants have filed this application supported by affidavit along with the photocopy of the death certificate and as such in the absence of anything contrary there is nothing to disbelieve the facts stated by the appellant in their said application. From the photocopy of the death certificate it appears that the sole respondent Ajay Kumar Dinda died on 18.01.24 and the instant application has been preferred on 12.02.25, i.e., well within time.

In view of the above position, I am inclined to allow the application.

Hence, it is

ORDERED

that the application of the appellant dated 12.02.25 under Order 22 Rule 4 read with section 151 CPC is hereby allowed. Let the persons mentioned in the instant application dtd 12.02.2025 be substituted in the place of the deceased sole respondent in the cause title of the plaint.

D.A. is directed to note the same accordingly.

Appellants are directed to submit amended copy of the memorandum of appeal as well as to take steps upon the substituted respondents by 30.06.25.

The application u/o 41 Rule 27 of CPC read with section 151 of CPC filed by the appellant will be heard along with the appeal.

S/D

Sonia Majumdar

Judge 2nd Bench

S/D

Sonia Majumdar

Judge 2nd Bench