

**Title Appeal – 68/2021**  
**CIS - 66/2019**

J.O. Code : WB01302

**Order No. 23 dt. 15.5.25**

Today is fixed for hearing of the petition dated 16.02.24 filed by the appellant u/s 151 of the CPC.

Both sides have filed hazira today.

The record is now taken up for hearing of the said petition in presence of both the sides.

Ld Advocate for the appellant while moving the said petition submitted that though it has come to the knowledge of the appellant on 13.4.23 that respondent No. 3 Dipankar Das expired on 07.02.20, the appellant has been unable to take steps on behalf of the deceased for his substitution in this appeal as he does not know who are the legal heirs of the deceased. He prayed for allowing the petition filed by the appellant u/s 151 of the CPC and for consequentially directing the other respondents to take steps for the substitution of the deceased respondent.

Ld Advocate for the respondent submitted that there was no provision in the CPC by which any existing respondent could be directed to take steps for substitution of any deceased respondent and that the onus lay upon the appellant to take steps for such substitution. He prayed for dismissal of the said petition filed by the appellant.

Heard both the sides. Perused the petition and record. Considered.

It appears from perusal of the record that the respondent had intimated this court on 13.4.23 that the respondent No. 3 namely Dipankar Das had died on 07.02.2020 and had also filed a photocopy of the death certificate of the deceased. Subsequently this court had

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on the same date had by its order directed the appellant to take steps in this regard on the next date. Thereafter the appellant did not take steps on the next date and on further two dates and prayed for further time to do so which was allowed. Thereafter the appellant filed the present petition u/s 151 of the CPC on 16.02.24 which is not tenable as there is no scope for directing the respondent to take steps for substitution in any appeal as the onus lies upon the appellant to do so under Order 22 Rule 4 of the CPC. Hence the instant petition filed by the appellant u/s 151 of the CPC is considered and rejected. As the limitation period of 90 days has already lapsed since the death of the respondent No. 3 and no steps for substitution has been taken by the appellant in this regard, the present appeal now stands abated against respondent No. 3.

Let the next date be fixed for hearing of the appeal. Both sides to come ready for the hearing.

To 12.8.2025 for hearing of the appeal.

Dictated & Corrected by

Sd/-  
Addl. District Judge, 2<sup>nd</sup> Court  
Serampore.

Sd/-  
Addl. District Judge, 2<sup>nd</sup> Court  
Serampore.

