

M.J (L.A) Case No.29/2005 (128 /2014).

Order No.82, dt. 29.05.2019.

Today is fixed for filing plaint afresh consequent to Or. No.78, dt. 29.01.2018. No plaint afresh has been submitted.

Hazira has been submitted through the Ld. Counsels of the respective parties. Ld. Counsels are found present on call.

Heard. Considered.

Perused all materials lying in the record.

Ld. Advocate for the petitioner contended that prayer for substitution, submitted on 29.01.2018 was allowed on the self-same day.

It has been pointed out that the prayer has not been, 'allowed' on dotted lines in so many words in the order itself.

Indeed, the expression 'allowed' does not find mention on the dotted line in the relevant portion of the order. But, the petitioner was directed to submit plaint afresh on as many as four occasions.

That implies approval of the prayer for substitution. In any case, the applicants are the legal heirs of the deceased petitioner and according to the precedent, reported in AIR 1967 Madhya Pradesh 171, there can not be any abatement of any proceedings of this nature. So, it can be safely construe that the prayer for substitution was allowed by way of necessary implication in the Or. No.78, dt. 29.01.2018, even though the expression 'allowed' does not figure therein.

Accordingly, to 20.06.2019 for filing plaint afresh and further order.

Dic. & cor. by me.

Judge, L.A.T,
1st Court, Jal.

Judge, L.A Tribunal,
1st Court, Jalpaiguri.
29.05.2019.