

In the Court of Additional District Judge, 2nd Fast Track Court, Alipurduar
Present : Sri Pukar Pradhan
Addl. District Judge, 2nd Fast Track Court, Alipurduar
J.O. Code No. WB 01097
Title Appeal 03/2023

Order No.19
dtd.05.06.2026

Today is date fixed for hearing.

Both parties file their respective hazira.

Case record is taken up for hearing of the petition dated 19.11.2025 filed by the appellant under **Order 22 Rule 2 of CPC**.

Ld. Advocate while moving the petition contended that the respondent no. 1 Sankari Sarkar expired on 24.01.2024 during the pendency of the appeal, but it came to the knowledge of the appellant recently. It is further contended that respondent no. 1 Sankari Sarkar expired leaving behind respondent no. 2 & 3 as her legal heirs and successor. Therefore, the right to sue survives as well as respondent no. 2 & 3 are already on record. Hence, prays for substitution and deletion of respondent no. 1 from the cause title of the memorandum of appeal.

Ld. Advocate for the respondent no. 2 & 3 contended that the petition so filed is barred by limitation under **Article 120 of Limitation Act**.

Having heard the submissions made by both the sides and on perusal of the case, it is apparent that present appeal was preferred against the judgment and decree so passed by the Ld. Trial Court as ex-parte on 08.09.2022. That apart, from the memo of appeal, it is apparent that respondent no. 2 and 3 are the legal heirs of the respondent no. 1 and they are already on record. Therefore, there is no harm in allowing the prayer of the appellant for deletion of respondent no. 1 from the cause title of memorandum of appeal.

Thus, considering the above facts, the prayer for deletion of respondent no. 1 is considered and allowed.

Let the cause title amended accordingly.

DA to do the needful.

Plaintiff is directed to file fresh amended memorandum of appeal within 10 days of passing of this order.

Thus, the petition stands disposed off.

Fix 09.07.2026 for filing amended memorandum of appeal and hearing.

Dictated & corrected by me ;

Addl. District Judge,
Fast Track 2nd Court, Apd.

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Fast Track 2nd Court, Apd.
(WB-01097)