

IN THE COURT OF DISTRICT JUDGE, NORTH 24 PARGANAS AT BARASAT

Present :
Sri Indranil Bhattacharyya (JO Code : WB-01135),
District Judge, North 24 Parganas

Title Appeal No.01 of 2019

Order no.33 dated 25.06.2025

Today is fixed for hearing of the petition u/Or.XXII Rule 3 of the CPC.

Hazira has been filed on behalf of the appellant.

None appears on behalf of the Respondents.

The matter is running ex parte against the respondents.

Now the substitution petition is taken up for hearing.

Heard. Considered.

The case of the appellant herein, as it appears from the petition under Or.XXII Rule 3 CPC, is that the instant appeal has been filed against the judgement and decree in preliminary form in Title Suit No.262 of 2007, as passed by the Ld. Civil Judge (Sr.Div.), 1st Court at Barasat has been dismissed ex parte. Against that judgement and decree the appeal has been preferred. It appears that the sole appellant died on 22.04.2023 and on his death, substitution petition by his legal heirs and substitutors could not be filed in time. Since the present appeal arises out of a partition suit, the question of substitution may arise in future and hence the present petition u/Or.22 rule 3 CPC has been filed.

None is present to oppose the petition filed by the respondents.

Upon perusal of of the petition and after going through the record including the copy of the death certificate, it appears that the sole appellant Bholanath Ghosh died intestate on 22.04.2023, leaving behind his legal heirs and successors as mentioned in the cause title of the petition describing as petitioners, that is 1) Shyam Ghosh, 2) Subal Ghosh and 3) Shefali Ghosh. It appears from the record that they are *sui juris* having no adverse claim against each other. Further more, it is an appeal arising out of a partition suit and no question of limitation involved herein.

In view of that this Court is inclined to allow the prayer for substitution.

Accordingly, the same is allowed and disposed of.

The petitioners herein be substituted in place of appellant Bholanath Ghosh since deceased.

Since the petitioners appeared by filing vakalatnama, there is no need for formal direction for appearance.

From the case record it also appears that service has not yet been completed in respect of some of the respondents.

Ld. Advocate for the appellants is directed to take necessary step against those whose service, as it appears from the record that Respondent No.2, 3, 4 and 5, has not been completed.

Fix 28.08.2025 for step.

Dictated & Corrected by me,

Sd/-
District Judge,
North 24 Parganas

Sd/-
District Judge,
North 24 Parganas