

57/24.08.2018

Today is fixed for hearing of the petition under order 22 rule 3 of code of Civil procedure read with section 151 of C.P.C filed by the ld lawyer for legal heirs of the deceased, Santana Banerjee praying for substitution of the deceased applicant/petitioner, Santana Banerjee and in his application he has stated that the present case was filed against the O.P for revocation of probate. In the meantime I.e on 25.04.2017, one of the petitioners, Santana Banerjee died leaving behind her two sons namely Amitava Banerjee and Arunava Banerjee as her only legal heirs and successors in respect of the property left by her and he has also prayed that the names of the said two sons of the deceased may be substituted in place of the deceased/petitioner, Santana Banerjee and their names may be registered in the cause title of this case. In support of his contention, the ld lawyer files a xerox copy of the death certificate.

Hd both sides. Perused, Considered.

Perused the petition and the xerox copy of the death certificate of Santana Banerjee.

It appears that one of the petitioners, Santana Banerjee filed the case before this Court and subsequently on 25.04.2017 the petitioner, Santana Banerjee had died leaving behind her two sons as her legal heirs and successors, but the instant petition for substitution has been filed under order 22 rule 3 of C.P.C on 8.8.2017. So, it is clear that the petitioner has not been filed within statutory period of time and the petition is not liable to be allowed.

Considering the above facts and circumstance, the instant petition should be rejected.

Hence,

it is **O R D E R E D**

that the application under order 22 rule 3 of code of Civil procedure read with section 151 of C.P.C filed by the petitioners is rejected as it is not maintainable in the eye of law. Let the case be abetted against deceased, Santana Banerjee.

Fix 01.12.2018 for taking steps.

D/C by me.

Additional District Judge, 1st Court, Barasat