

Ej Ex 158 of 2003
WBPS01- 000794-2003
Before: Smt. Sudipa Banerjee, Ld. Judge, 3rd Bench

Order no. 241

Date: 20-02-2023

Today is fixed for hearing of the petition u/o 1 rule 10 (2) of CPC.
W/o if any, in the mean time.

Decree holders file hazira.

The petition u/o 1 rule 10 (2) of CPC filed by the decree holders
dt. 30.07.2018 is taken up for hearing.

Judgement debtors have not filed any written objection against the
instant petition.

Heard Ld. Advocate for the decree holders.

Perused the petition and materials on record.

By the instant petition decree holders have contended that , the
judgement debtor no (2) and (6) namely Nitish Sen and Namita
Sen respectively have died bachelors after filing the instant
execution case. The right to sue survives upon the surviving
judgement debtors as such decree holders have prayed for deletion
of the name of the judgement debtor no (2) and (6) from the
cause title of the tabular statement of the instant execution case.
Unless the said prayer is allowed decree holders shall suffer loss
and injury. Instant petition is supported by an affidavit.

Considered.

As the right to sue survives and devolved upon the surviving
judgement debtors, this Court is inclined to allow the instant
petition filed by the judgement debtors dt. 30.07.2018.

Hence it is ,

Ordered

that, petition u/o 1 rule 10 (2) of CPC filed by the decree holders
dt. 30.07.2018 is hereby allowed.

Contd....

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Let the name of judgement debtor no (2) Nitish Sen and judgement debtor no (6) Namita Sen be deleted from the cause title of the tabular statement of the instant execution case.

Department is directed to do the needful.

Decree holders are directed to file amended copy of tabular statement.

Fix 26-04-2023 for filing amended copy of tabular statement by the decree holders.

Sudipa Banerjee
(J.O. Code: WB 01148)
Judge,
3rd Bench,
Presidency Small Cause Court,
Calcutta