

Present : **Sri Soumen Sarkar (WB 00889)**
Addl. District Judge,
3rd Court, Purulia

Misc. Case no. 40 of 2018
Misc. Case no.04 of 2018(CIS)

Order no. 131

Dated 21-12-2024

This day is fixed for ex-parte hearing.

The petitioner has filed hazira.

The OP has also filed hazira through his Ld. Advocate.

No petition has been filed by the OP for vacating order of hearing of this case on ex-parte.

Ld. Advocate for the petitioner is present and submitted that on 22-12-2020 a petition has been filed by this petitioner under Order 22 Rule 4 read with Section 151 of the Cr.P.C praying for substitution of heirs of OP no.9 in this case and the same petition is still pending.

As per prayer of the Ld. Advocate for the petitioner petition dated 22-12-2020 under Order 22 Rule 4 read with Section 151 of the Cr.P.C is taken up for hearing.

Perused the petition and it transpired that the OP no.9 namely Dukhan Kumar expired on 16-01-2020 and as such, the petitioner has prayed for substitution of the legal heirs of deceased OP no.9 in this case as substituted OP no.9(a) to 9(e).

Ld. Advocate for the petitioner submitted that the substitution petition could not be filed within the period of limitation of 90 days but due to Covid 19 pandemic the limitation period was enlarged by the Hon'ble Apex Court and as such, the Ld. Advocate for the petitioner prayed for allowing the substitution petition.

Having heard the submission of Ld. Advocate for the petitioner and after taking into consideration that in suo motu Writ Petition no.03 of 2020 the Hon'ble Apex Court was pleased to hold where the period of limitation would have expired during the period between 15-03-2020 till 28-02-2022 notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01-03-2022. It was also held by the Hon'ble Apex Court that in the event the actual balance period of limitation remaining with effect from 01-03-2022 is greater than 90 days that long period shall apply. In this case the limitation period for substitution expired within the period between 15-03-2020 till 28-02-2022 and as such by the enlargement period of limitation as per the amended of the Hon'ble Apex Court it is found that the substitution petition has been filed in this case within the period of limitation. Thus, the substitution petition is required to be allowed.

Misc. Case no. 40 of 2018
Misc. Case no.04 of 2018(CIS)

Contd.....

Order no. 131

Dated 21-12-2024

The substitution petition dated 22-12-2020 under Order 22 Rule 4 read with Section 151 of the Cr.P.C is hereby allowed.

The OP no.9 is hereby deleted from the cause title of the Misc. Case and in that place his legal heirs as per the petition be substituted as OP no.9(a) to 9(e).

The petitioner is directed to take steps for causing service of notice upon the substituted OP no.9(a) to 9(e).

Case is adjourned today.

Fixing **18-02-2025** for S/R of substituted OPs.

D/C by me.

ADJ, 3rd Court, Purulia

ADJ, 3rd Court, Purulia.