

Order no. 48
dt. 03.04.2025

On this date both the Appellant and the respondent are present in court by filing respective Haziras. The petition dt. 19.03.2025 filed u/O 22 Rule 4(4) CPC is taken up for hearing in presence of the contesting parties. The respondent on this date has filed written objection against the said petition.

Heard both sides. It was submitted by the Ld Advocate for the Appellant that the Proforma respondent no. 3 Chittarnjan Halder and Pro-Respondent no.7 Sipra Chakroborty did not contest the present appeal though the notice upon them were duly served. It was therefore submitted that as both the said respondents have expired so the Appellant may be absolved from impleading them as the respondents in this appeal.

The Ld Advocate for the respondent has submitted that the petition can only be allowed if the notices upon the said deceased respondents were duly served but had failed to appear in the present appeal.

On perusal of the record it appears that upon the Proforma respondent no. 3 Chittarnjan Halder and Pro-Respondent no.7 Sipra Chakroborty the notices were duly served on 21.05.2013 and 31.05.2013 respectively as the respondent no.3 had duly received the notice and the respondent no.7 had refused to accept the notice as such both the notices can be held to be duly served. But both the said respondents have failed to turn up in this appeal. Considering the same and in view of the provisions of O22 Rule 4(4) CPC the appellant is exempted from adding the heirs of the said deceased respondents as parties to this appeal.

Hence it is

ORDERED

That the petition dt. 19.03.2025 filed u/O 22 Rule 4(4) CPC is hereby allowed on consent without any order as to the cost. The appellant is exempted from adding the heirs of the said deceased respondents no.3 and the respondent no.7 as parties to this appeal.

To **21.04.2025** for filling fresh Memo of Appeal. The Ld Advocate for the contesting respondent has submitted that he came to know in the meantime that few other respondents have expired in the appeal. As such the contesting respondent to file the details as to the deceased respondents positively by the date fixed. To date (**21.04.2025**) for filling the list of the deceased respondents.

Sd/-

ADJ FTC-I