

Present: Sri Arindam Chattopadhyay

J. O. Code : WB00859

Title Appeal 42 of
CIS 1109 of 2016

Order No.42
Dt.20.09.2022

Today has been fixed for hearing of the petition dated 26.08.21 filed by on behalf of the legal heirs of the original sole appellant.

Ld. Advocate of the petitioners of the said petition dated 26.08.21 is found present by filing hazira.

No step has been taken by any of the respondents.

The said petition dated 26.08.21 is taken up for hearing.

Heard the Ld. Advocate of the petitioners.

Perused the said petition under consideration and the case record.

In the said petition it has been stated that the sole appellant of this case namely Madhusudan Naskar has died on 21.04.21 leaving behind his widow Smt. Sachirani Naskar, two sons namely Prasanta Naskar & Susanta Naskar and one daughter namely Rekha Biswas i.e. the petitioners as his legal heirs and representatives. Accordingly, the petitioners have prayed for their substitution on the death of the sole appellant of this case so that they may carry on with the proceeding of this appeal.

On perusal of the photo copy of the death certificate it appears that the contention as made in the said petition dated 26.08.21 is correct.

Although the said petition filed by the petitioners is beyond the statutory period of limitation of substitution, as the period under consideration fall within the pandemic situation, the period of limitation in this particular case shall not be applicable in view of the order of the Hon'ble Apex Court of India wherein the period of limitation of ALL cases was extended till 28.02.2022.

Hence it is ,

O R D E R E D

That the petition dated 26.08.21 filed by petitioners is allowed.

Let the legal heirs of deceased appellant namely Madhusudan Naskar be substituted in this appeal as appellant Nos. 1(A), 1(B), 1(C) & i(D) respectively.

BC-I is directed to make necessary endorsement in the Memo of Appeal and the register.

The appellants are directed to take fresh steps for service of summons upon all the respondents immediately.

Fix 06.12.22 for filing fresh memo of appeal & S.R. & A./D upon the respondents.

D/c/by me

Addl. Dist. Judge
FTC II, D/Harbour