

TS 26/2009(CIS no. 199 of 2015)

Order No.134

Dated :20.07.2019

Today is fixed for hearing petitions U/O 22 Rule 4 dated 27/05/2019.

Both parties file hazira.

The petition **U/O 22 Rule 4** is taken up for hearing.

Heard both sides. Perused the materials on record.

During the pendency of this suit, defendant no. 6 Khagendranath Ghosh expired on 08.02.2019 leaving behind his wife, three sons and a daughter as his legal heirs.

The substitution petition is filed before this Court on 27.05.2019 which is beyond the period of 90 days from the date of death of defendant no.6. However, Ld. Advocate for the plaintiff submitted that since there was a strike by Ld. Advocates for a reasonable period of time during which the petition ought to have been submitted but the plaintiff could not submit. Yet the plaintiff showed his diligence in filing said petition on the date when said strike got over and Ld. Advocates started working in normal course. Ld. Advocate for other defendants objected to instant petition on the ground that the plaintiff needs to prove his submissions and grounds on which he has prayed for exemption for delay in filing this petition.

Therefore, upon hearing both sides, this Court comes to the finding that admittedly there is delay in filing the present before this Court. However the ground of delay as shown by the plaintiff is a valid and genuine ground and I am of the considered view that litigant cannot be made to suffer on the ground of a astrike by Ld. Advocates .

Accordingly finding merit in the prayer of the plaintiff to substitute the names of the legal heirs of deceased defendant as per the schedule of the application I am inclined to allow the same.

Let the legal heris of deceased defendant no.6 be added as defendant no. 6 ka to 1b in the present case.

Plaintiff is directed to file amended plaint and take necessary steps upon the substituted defendants .

To **27.08.2019**, for filing amended plaint and taking steps by the plaintiff.

T/C by me

Sd/-Riha Trivedi
Civil Judge (Jr. Divn.)
Additional Court, Garhbeta,
Paschim Medinipur

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Civil Judge (Jr. Divn.)
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