

T.S.47/2022(Regd no.46/2017)

Order No. 33

Dated : 08.09.2022

1. Both parties file hazira. Today is fixed for hearing of petition U/O 22 rule 4 for substitution of legal heirs of defendant no. 01 dated 02/06/2022.
2. Heard Ld. Advocates for both the sides .
3. Defendant no. 01 of the instant suit namely one Sandip Ray died on 23/10/2021 leaving behind his son, daughter and his wife as his legal heirs, and the application for substituting his legal heir is filed on 02.06.2022 that is beyond the period of limitation.
4. Ld. Advocate for the plaintiff prays for allowing the petition on the ground that during the time of death of the defendant there was lock down due to Covid -19 pandemic and therefore he could not take steps within time.
5. Considering the Pandemic situation as well the recent ruling of Hon'ble Apex Court in **Suo Motu Writ Petition (c) no. 3 of 2020** wherein Hon'ble Court has been pleased to exclude the period from 15.03.2020 till 28.02.2022 while computing period of limitation, this Court finds that in view of Aforesaid ruling, the statutory period for substitution for legal heirs of Defendant no.1 expired on 30.05.2022, considering 29.05.2022 was a Sunday.
6. However it appears from record that though the plaintiff swore the affidavit on 30.05.2022, he filed the petition before this Court on 02.06.2022 after serving copy to defendant on same date by way of put up petition. So this Court will obviously hold the date of filing of application as 02.06.2022 and not 30.05.2022 as the said petition did not come up before this Court for consideration on 30.05.2022.
7. Accordingly this Court is of the view that the present petition is barred under the law of limitation and hence it is rejected
8. Hence, it is

Ordered

9. that the application U/O 22 Rule 4 be and the same is **rejected on contest.**
10. Suit will abate against Defendant no.1.
11. D.A to make necessary note of expunging the name of defendant no.1 from the cause title of the plaint.

To **16.11.2022**, for production of documents by defendant no.2-3 and steps by plaintiff upon Defendant no. 5.

T/C by me

Sd/-Riha Trivedi
Civil Judge (Jr. Divn.)
Additional Court, Garhbeta,
Paschim Medinipur
WB01318

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