



2023:CHC-AS:43886

M/L- 851  
18/06/2026  
Ct. No.-19  
Aritra

**WPA 27410 of 2013**

**Shashi Mondal & Ors.**

**Vs.**

**The State of West Bengal & Ors.**

**With**

**CAN 1/2023, CAN 2/2023, CAN 3/2023,  
CAN 4/2023 & CAN 5/2025**

Mr. Udayan Narayan Betal  
Mr. Bhaskar Hutait

....for the petitioners

Mr. Nilanjan Bhattacharyya, S.S.C.,  
Ms. Jayita Dhar Chakraborty

....for the State

**In Re.:- CAN 1 of 2023**

This is an application for restoration of the writ petition by recalling the order dated August 2, 2023.

After hearing the learned advocate appearing for the petitioners and Mr. Bhattacharyya, learned Senior Standing Counsel, this Court is satisfied that the petitioners were prevented by sufficient cause for not appearing when the writ petition stood dismissed for default.

Accordingly, the order dated August 2, 2023 stands recalled.

The writ petition is restored to its original file and number.

Accordingly, CAN 1 of 2023 stands allowed.

**In Re.:- CAN 2/2023, CAN 3/2023, CAN 4/2023**

The petitioner No.5 died intestate on January 20, 2017. The petitioner filed an application for substitution



of the legal heirs and representatives of the deceased petitioner no.5 being CAN 3 of 2023.

Since the application for substitution was not filed within the prescribed period of limitation an application praying for setting aside the abatement being CAN 2 of 2023 was failed.

The application for condonation of delay in filing the application for setting aside the abatement has also been is registered as CAN 4 of 2023.

After hearing the learned advocate for the petitioners and Mr. Bhattacharyya, learned Senior Standing Counsel, this Court is of the considered view that the petitioner was prevented by sufficient cause for not filing the application for substitution and setting aside abatement within the prescribed period of time.

Accordingly, the delay in filing the application is condoned.

Accordingly, CAN 4 of 2023 stands allowed.

After going through the averments made in CAN 2 of 2023, this Court finds that the petitioner has satisfactorily explained the reasons for which the application for substitution was not filed within the stipulated time frame.

The petitioner no.5 has died on January 20, 2017 and the names of the heirs and heiress of the deceased petitioner has been specifically stated in paragraph 8 of the application being CAN 3/2023.

After going through the averments made in the application, this Court finds that the right to proceed with



the instant writ petition survives upon the heirs and heiress of the deceased petitioner no.5.

After hearing the learned advocate for the petitioners and Mr. Bhattacharyya, learned Senior Standing Counsel, this Court finds that the delay in filing the application for substitution has been satisfactorily explained. The abatement of the writ petition upon the death of the petitioner no.5 is set aside.

Accordingly, the application of substitution being CAN 3 of 2023 stands allowed.

The heirs and heiress of the deceased petitioner as specifically mentioned in paragraph 8 of the application be substituted in place and stead of the deceased petitioner no.5.

Department is directed to carry out the necessary amendment within the period of two weeks from date.

The application being CAN 2 of 2023 stands disposed of accordingly.

**In Re.:- WPA 27410 of 2013**

Affidavit-in-reply filed by the petitioners is taken on record.

A copy of the writ petition and affidavit-in-reply has been served upon Mr. Bhattacharyya in course of hearing of this matter.

Mr. Bhattacharyya is requested to take instruction in this matter.

List this matter along with CAN 5 of 2025.



Petitioner will be at liberty to mention for enlistment of the matter under the heading “Hearing” before the appropriate Bench.

***(Hiranmay Bhattacharyya, J.)***