

07 to 09
08.10.2024
Jayanta/11

RVW 2408 of 2007
+
IA No.: CAN 1 of 2007 (Old No.: CAN 9250 of 2007)

The State of West Bengal & Others
– *Versus* –
Sri Rajendra Agarwalla & Others
in
WPLRT 1115 of 2001
+
CPAN 660 of 2007
Sri Rajendra Agarwalla & Others
– *Versus* –
Sukumar Singha Ray & Others

AND

RVW 2407 of 2007
+
IA No.: CAN 1 of 2007 (Old No.: CAN 9254 of 2007)

The State of West Bengal & Others
– *Versus* –
Lakshmi Narayan Agarwal
in
WPLRT 1420 of 2001
+
CPAN 661 of 2007
with
CAN 1 of 2017 (Old CAN 7952 of 2017)
with
CAN 2 of 2017 (Old CAN 7953 of 2017)
with
CAN 3 of 2017 (Old CAN 7954 of 2017)

Lakshmi Narayan Agarwal
– *Versus* –
Sukumar Singha Ray

AND

RVW 2409 of 2007
+
IA No.: CAN 1 of 2007 (Old No.: CAN 9255 of 2007)

The State of West Bengal & Others
– *Versus* –
Sumitra Devi Agarwal
in
WPLRT 1419 of 2001
+
CPAN 659 of 2007

Sumitra Devi Agarwal
 – *Versus* –
Sukumar Singha Ray & Others

Mr. Pradip Kumar Roy
 Mr. T. Roy Chowdhury
 ... for the Writ Petitioners/Opposite Parties
 (in all matters).
 Mr. Chandi Charan De, Ld. AGP
 ... for the State/Respondents.

CAN 2 of 2017 (Old 7953 of 2017)

1. This application has been filed in connection with the contempt petition being CPAN 661 of 2007, seeking condonation of delay in filing the application for setting aside the abatement.
2. Mr. Roy, learned advocate appearing for the applicant, submits that during the pendency of the contempt petition, the petitioner expired on 3rd September 2016. The legal heirs were unaware of the pendency of these proceedings, and therefore, there was a delay in the preparation and presentation of this application. He submits that the abatement of the contempt proceeding, if considered abated, should be set aside in the greater interest of justice.
3. Mr. De, learned Additional Government Pleader, has left the matter to the discretion of the Court.
4. Heard the learned advocates appearing for the respective parties and considered the materials on record, along with the averments made in the applications explaining the delay in preferring this

application. We are satisfied that the explanation constitutes sufficient cause, which prevented the petitioner from filing the application for setting aside the abatement within the prescribed period.

5. Accordingly the delay is condoned. We are of the view that right to sue survives to the legal heirs of the petitioner, since deceased and therefore, the abatement is set aside.

CAN 1 of 2017 (Old 7952 of 2017)

6. This is an application for substitution.
7. Mr. Roy submits that for the effective adjudication of the contempt petition, the legal heirs of the deceased petitioner is required to be brought on record.
8. Mr. De, Learned Additional Government Pleader has not seriously opposed such prayer.
9. Having regard to the facts and circumstances of this case, and since the right to sue survives to the legal heirs, and they are all majors and sui juris, the application for substitution is allowed.
10. In view thereof, let the legal heirs, as detailed in paragraph 2 of this application, be substituted in place of the petitioner, namely Lakshmi Narayan Agarwalla, since deceased.
11. The Office is directed to make the necessary correction in the cause title of the contempt petition, being CPAN 661 of 2007.
12. The record reveals that the contempt application was adjourned sine die, with liberty to the parties to

mention the same once the reference made in Khoday Distilleries Ltd. (supra) is answered.

13. Mr. Ray submits that the said reference has already been answered and as such, there cannot be any impediment to proceed with the matter.

14. In such conspectus, list the matter for further consideration under the same heading in the daily supplementary list of this Court on 10th December 2024.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)