

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

CO/25/2026

Shri Shyam Lal Mahato and another

Vs.

Shri C.X.Wilson

Mr. Ananda Halder ... for the petitioners

April 21, 2026
[SR]
Item No.8

1. The present revisional application has been filed against an order whereby the learned Trial Judge directed the plaintiffs/petitioners to implead the heirs and legal representatives of the defendant/opposite party.

2. Learned counsel for the petitioners argues that it was never the case of the plaintiffs/petitioners that the defendant has met his demise.

3. In the plaint, it has been categorically alleged that the defendant is liable to execute and register a proper sale deed in respect of the suit land in favour of the plaintiff but even after receiving full consideration amount, the defendant is not coming forward to register sale deed in favour of the plaintiffs.

4. According to the plaint case, when the plaintiffs finally went to the house of the defendant, he was not home and his legal heirs refused to register the sale deed in respect of the suit land in favour of the plaintiffs “as instructed by the defendant”. The same statement was repeated in the examination-in-chief of the plaintiff.

5. Apparently taking a cue from the said expression used in the examination-in-chief, to the effect that the legal heirs of the

defendant refused to register sale deed, the learned Trial Judge proceeded on the mistaken notion that the defendant had met his demise, which was beyond the plaint case altogether.

6. In such view of the matter, this Court is of the opinion that a sufficiently strong arguable case has been made out in the revisional application as to whether the learned Trial Judge exercised jurisdiction not vested in him by law in directing the plaintiffs/petitioners to implead the heirs and legal representatives of the defendant/opposite party despite the plaint case being categorically that the defendant is still alive.

7. Learned counsel for the petitioners submits that the defendant could not be served with the summons of the suit and substituted service had to be effected, as he has left his last-known address, and accordingly seeks liberty to effect service by the mode of substituted service in respect of the revisional application as well.

8. Accordingly, the petitioners are directed to effect substituted service on the defendant/opposite party by publication of notice in two daily newspapers, one in English and the other in the vernacular language of the defendant/opposite party, having at least moderate circulation in the area of the last-known address of the opposite party, within a fortnight from date.

9. An affidavit of service to that effect shall be filed by the petitioners on the returnable date.

10. The revisional application shall next be listed before the appropriate Bench in the next Circuit.

11. There shall be stay of operation of the impugned order as well as all further proceedings in Other Suit No.23 of 2020 pending before the learned Civil Judge (Junior Division –I), Port Blair till the disposal of the revisional application.

(Sabyasachi Bhattacharyya, J.)