

Party Name : SUKUMAR BISWAS & ORS Vs UTTAM BISWAS @ MARAN BISWAS & ORS

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THE HONBLE MR. JUSTICE S.TALAPATRA

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Heard Mr. D. Deb, learned counsel appearing for the petitioners as well as Mr. H. Laskar, learned counsel for the respondents.

This is a petition filed under Section 5 of the Limitation Act for condoning the delay of 176 days in filing the application under Order XII Rule 4 of the C.P.C. for substituting the legal heirs of the respondent No.2 namely, Makhan Ch. Biswas, who died on 23.05.2014 during pendency of CRP No.69 of 2013.

According to the petitioners, they gathered the knowledge of death of the respondent No.02 on 08.01.2015. From the date of knowledge, there is no delay but for purpose of explaining that they did not have knowledge till 08.01.2015, they have filed this petition praying for leniency for purpose of condoning the delay.

Mr. Laskar, learned counsel appearing for the respondents did not raise any objection.

Having situated thus, this Court is of the view that the delay occurred in filing the application under Order XIII Rule 4 of the C.P.C. for purpose of substituting the legal heirs of the respondent No.2, since deceased is condoned and as corollary thereto, this petition stands allowed.

The CM. application is disposed of.