

Party Name : SARASWATI GHOSH & ORS Vs GIRINDRA KR DAS & ORS

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THE HONBLE MR. JUSTICE S.TALAPATRA

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As it appears from the order dated 14.08.2014 that Mr. D.K. Biswas, learned counsel informed this court that the attorney of the appellants engaged him for appearing on behalf of the appellants in this appeal, but after the death of the said attorney, namely Panna Lal Ghosh, none of the appellants engaged him as their counsel, thus he ceased to have any power for appearing on behalf of the appellants.

As a matter of caution, not as a matter of rule, notices were issued to the appellants. From the Registry's report, it appears that the appellants who received the notice have neither appeared in person nor engaged any counsel. It also appears from the Registry's note dated 08.01.2015 that the appellants No. 5(1), 5(2), 5(3), 5(4) and 5(5) have received the notice, but have not appeared to ensure their representation. So far the appellants No. 1, 2, 3(b), 4 and 6 are concerned neither AD cards nor the registered letters containing the notices have been received by the Registry. As such, under order V rule 9(5) of the CPC it is deemed that the notices have been duly served on them. The notices were returned unserved on the appellant No.3(c) as he left that address, the appellant No.3(d) was not found in that address and the appellants No.8(i) and 8(ii) also left their earlier address.

In such situation, it has been already pointed out that it was only a matter of caution that those notices were issued. For their non-service, this court is not at all prohibited from passing the appropriate order in this circumstance. It is the duty of the appellants alone to engage the counsel or to appear in person for representing their case on the death of their attorney.

Accordingly, this appeal stands dismissed for non-prosecution.

Mr. K. Nath, learned counsel appears on instruction of P. Roy Barman, learned counsel for the respondents.