

Party Name : MD. EKLASH BAKSH & ANR Vs RASHID ALI & ORS

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THE HONBLE MR JUSTICE U. B. SAHA

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The instant application is filed by the appellant applicants under Sub-Rule (4) Rule 4 of Order XXII of the Code of Civil Procedure for exempting the appellant from the necessity of substituting the legal representatives of the respondent No. 1 who failed to file written statement and also failed to appear and contest the suit as well as the appeal before the Courts below.

Heard learned counsel appearing for the parties.

As it appears that the respondent no.1 did not file written statement in the trial court as well as the first appellate court and ultimately expired. Thus, according to Sub-Rule (4) Rule 4 of Order XXII of the Code of Civil Procedure, the legal heirs of the said respondent need not be substituted.

In view of the above, prayer for exempting the appellant from substituting the legal heirs of respondent no. 1 is allowed.

The application is disposed of accordingly.