

Party Name : SEKHAR DUTTA CHOWDHURY & 3 ORS. Vs DIBYENDU GHOSH CHOWDHURY & 12 ORS.

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THE HONBLE MR. JUSTICE S.TALAPATRA

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Heard Mr. R. Debnath, learned counsel appearing for the appellant-petitioners as well as Mr. D. C. Roy, learned counsel appearing for the respondents No. 1, 2 and 3. None appears for the other respondents when the matter is taken up.

This petition has been filed under Order XXII Rule 4 read with Order I Rule 10(2) of the CPC for substitution/adding of the legal heirs of the deceased Nirmalendu Ghosh Chowdhury, the original plaintiff No. 2 by striking off the name of the respondent No.7, Smt. Tinku Ghosh Chowdhury.

It appears that in this case also no death certificate has been filed about the death of Nirmalendu Ghosh Chowdhury but a statement has been made in this petition that he died long before the judgment and decree dated 29.05.03 as passed. Even the date of death has not been asserted in the entire petition. In this regard, it has to be remembered that the impugned judgment and decree was passed on abatement and as such this petition stands rejected.