

Party Name : SEKHAR DATTA CHOUDHURY & ORS Vs DIBYENDU GHOSH CHOUDHURY & 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 for striking off the respondent No. 4, namely, Pankajendu Ghosh Chowdhury and one Smt. Tinku Ghosh Chowdhury who was added as the legal heir of Nirmalendu Ghosh Chowdhury. Mr. R. Debnath, learned counsel for the appellant-petitioners has submitted that for striking off the name of Smt. Tinku Ghosh Chowdhury, another petition being CM. Appl. No. 247/12 is still pending. In this case, for striking off the name of the respondent No. 4, no reliable record as to death of the respondent No. 4 has been filed.

This court is of the view that in the pendency of the CM Appl No. 247/12, the petitioner ought not have made similar prayer in this petition. Even though, Mr. R. Debnath, learned counsel has strenuously argued that some new facts have been divulged in this petition but this Court is not satisfied inasmuch as the appellant-petitioners do not have any right to press the new facts in a new petition without placing those facts in the pending petition.

The deletion prayer for the respondent No. 6 (a) to (e) at this stage cannot also be considered as such prayer is incumbent upon the decision in the appeal.

Hence, this petition stands rejected.