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151/CL

16.11.2021

SL-21

Ct.04

(S.R.)

WPLRT No.47 of 2021
Srimatya Madhabilata Maity & Ors.

v.

The State of West Bengal & Ors.

Mr. Soumen Dutta
Mr. Sabyasachi Bhattacharjee
Mr. Subhadeep Chatterjee ... for the petitioners.

Mr. A. Ray, Ld. G.P.
Md. T.M. Siddiqui
Mr. N. Chatterjee ... for the State.

The present writ petition has been preferred challenging a judgment and order dated 7th September, 2021 passed in Original Application No.3119/06.

We have heard Mr. Dutta, learned advocate appearing for the petitioners and Mr. Ray, learned Government Pleader appearing for the State.

From the order impugned, it appears that the learned Tribunal refused to restore the Original Application, which was dismissed for default on 19th January, 2007. The applications filed for restoration along with condonation of delay and the application for substitution were rejected since no application within the stipulated period was filed by the petitioners for setting aside abatement and the learned Tribunal, accordingly, observed in the order that *“after such abatement, the remedy available to the legal representatives of the deceased is to pray for setting aside abatement under*

Order 22 Rule 9 CPC. Accordingly, in this present OA, plain application for substitution is not at all applicable”.

We do not find any infirmity in the order impugned warranting interference of this Court and accordingly, the application being, WPLRT No.47 of 2021 is dismissed.

There shall be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)