

16.02.2022
(S/L-07)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 1889 of 2019

Mst. Golenur Begum
-Vs-
Mansur Mallick & Anr.

Mr. Sayantan Rakshit,
Mr. K.P. Mukhopadhyay,
.... For the Petitioner.
Mr. Rabindranath Mahato,
Mr. Aritra Shankar Roy,
... For the Opposite Parties.

The defendant no.1 in a suit for partition being Title Suit No. 255 of 2017 pending before the learned Civil Judge (Senior Division), Uluberia, District-Howrah is the petitioner of the present application under Article 227 of the Constitution of India.

The learned Trial Judge on September 6, 2018 refused to grant adjournment to the petitioner as time for filing written statement had expired and put the petitioner ex-parte in the suit.

The husband of the petitioner, the defendant No. 2, Sk. Idrish Mallick, died on January 30, 2018 but the impugned order was passed without bringing the heirs and legal representatives of the said deceased defendant on record or by expunging the name of the said deceased defendant from the record.

The order impugned being passed against a dead person is a nullity and is accordingly set aside.

The petitioner is at liberty to apply before the learned Trial Judge for acceptance of her written statement, if such application is made, the learned Trial Judge shall consider the same in accordance with law.

C.O. 1889 of 2019 is disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)