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C.O. 1897 of 2022

**Swapan Naskar & Ors.
Vs
Panchu Gopal Mandal & Ors.**

Mr. Basudeb Gayen.

... For the petitioners.

Petitioners assail the order dated 22nd February, 2022 passed by the learned Civil Judge (Senior Division), 3rd Court, Alipore in Title Suit No. 133 of 2014, allowing a petition in Order 1 Rule 10(2) of the Code of Civil Procedure.

Admittedly the sole plaintiff died.

The substitution application ordinarily filed in a case, could not be filed taking recourse to the provisions available in the Code of Civil Procedure. However, an application under Order 1 Rule 10(2) of the C.P.C. was filed for impleading legal heirs left by sole plaintiff.

The only contention raised in this case is whether the addition of parties should be sustained, or not, because it was not in consequence of application under Order 22 Rule 4 of the C.P.C.

Having considered the submission of learned advocate for the petitioners it appears that the sole plaintiff died leaving behind heirs. There has been legal heirs left behind the sole plaintiff, who are already impleaded under Order 1 Rule 10(2) of the

C.P.C. Whatever may be the caption and citation mentioned in the petition under Order 1 Rule 10 of the CPC, it is basically petition for substitution. The court below allowed the petition under Order 1 Rule 10(2) of the CPC during the extended period of time, as already granted by this Court, to stop running the limitation.

In a situation like this, there should not be any fight on such issue giving a precedence to the technicalities.

The revisional application does not call for any interference, and accordingly stands disposed of.

Petitioners are directed to make communication of this order to the learned court below as well as to the learned advocate appearing in the court below for the opposite parties and the opposite parties.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)