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C.O. 324 of 2023

**Smt. Sujoya @ Keya Dey
Vs
XXXXXXXXXX**

Mr. Susenjit Banik,

... For the petitioner.

Refusal for substituted service is under challenge in this case.

While assailing the impugned order, Mr. Susenjit Banik, learned advocate appearing for the petitioner submits, that since the earlier service of summons could not be effectively served upon the legal heirs of the testatrix, the service has been sought to be effected upon the legal heir/heirs, left by testatrix in the known address of the petitioner, furnished before the Court below, so as to effect substituted service.

There is nothing available in the record, how many times summons were issued upon the legal heirs left by testatrix, and what is the report of the service.

Since it a probate proceeding, service upon the legal heirs or upon the persons having any interest to the subject property as per citation is of highest consequence.

Therefore, the provisions as available under Order 5 C.P.C. needs to be complied in letter and spirit.

The revisional application stands disposed of, upon setting aside the impugned order, giving liberty to

petitioner to produce all relevant documents before the court blow, together with the service report, if any, earlier effected upon the legal heirs of the testatrix, including persons mentioned in the citation and dispose of the petition, proposing prayer for substituted service, giving a fresh hearing to the petitioner in accordance with law.

(Subhasis Dasgupta, J)