

16.01.2025
Item No.02
Court No.11
Avijit Mitra

**WPLRT 590 of 2002
with
IA No.CAN 6 of 2024
with
IA No.CAN 7 of 2024
with
IA No.CAN 8 of 2024
with
IA No.CAN 9 of 2024
with
IA No.CAN 10 of 2024
with
IA No.CAN 11 of 2024
with
IA No.CAN 12 of 2024
with
IA No.CAN 13 of 2024**

In re: An application under Article 226 of the Constitution of India;

And

**Sachindra Nath Mondal
- versus -
The State of West Bengal & ors.**

Mr. Sounak Bhattacharya,
Mr. Kingsuk Mondal,
Mr. Pradip Kr. Kundu
...for the petitioner

Mr. T.M. Siddiqui, Ld. A.G.P.,
Mr. Suddhadeb Adak,
Ms. Debdooti Dutta
...for the State

Mr. Sukanta Das
...for the respondent no.5

Affidavit-of-service filed by the petitioner be kept on record.

In re: IA No.CAN 6 of 2024 & IA No.CAN 7 of 2024

These are applications for restoration and for condonation of delay in preferring the application for restoration respectively.

Heard the learned advocates appearing for the respective parties and perused the averments made in the applications.

We are satisfied with the explanations given towards the delay in preferring the application and towards the absence of the learned advocate of the petitioner on 9th October, 2023, when the matter was dismissed for default.

Accordingly, both applications are allowed.

Delay in preferring the application for restoration is condoned and the order dated 9th October, 2023 is recalled. The writ petition and its connected applications are restored to their respective original numbers and file.

In re: IA No.CAN 8 of 2024, IA No.CAN 11 of 2024 & IA No.CAN 12 of 2024

The three applications have been filed seeking (i) condonation of delay in filing the application for setting aside the abatement, (ii) setting aside the abatement, and (iii) substitution of the legal heirs in place of the deceased writ petitioner 1(d), Paresh Nath Mondal, who passed away on 21st June 2021, leaving behind his legal heirs as detailed in paragraph 2 of IA No. CAN 8 of 2024. Mr. Bhattacharya, learned advocate for the applicants, submits that for the effective adjudication of the writ petition, it is necessary to bring the legal heirs on record.

Mr. Das, learned advocate appearing for the respondent no.5 submits that there is a delay in preferring these applications.

Heard the learned advocate representing the petitioners and perused the averments made in the applications.

Upon perusal of the averments made in the application, it appears that the legal heirs are all majors and sui juris. We are of the view that their presence is essential for the effective adjudication of the writ petition. Accordingly, the applications being IA No. CAN 8 of 2024, IA No. CAN 11 of 2024, and IA No. CAN 12 of 2024 are allowed.

The delay in filing the application for setting aside the abatement is condoned. The abatement of the petition in respect of petitioner no. 1(d) is set aside, and the application for substitution is allowed.

Let the legal heirs, as detailed in paragraph 2 of IA No. CAN 8 of 2024, be substituted in place of the deceased petitioner, Paresh Nath Mondal.

The office is directed to make the necessary correction in the cause title of the writ petition.

In re: IA No.CAN 9 of 2024, IA No.CAN 10 of 2024 & IA No.CAN 13 of 2024.

These three applications have been filed seeking (i) condonation of delay in filing the application for setting aside the abatement, and (ii) substitution of the legal heirs in place of the deceased writ petitioner 1(b), Kamalesh Mondal, who passed away on 3rd January 2024, leaving behind his legal heirs as outlined in paragraph 2 of IA No. CAN 9 of 2024. Mr. Bhattacharya, the learned advocate for the applicants contends

that for the writ petition to be effectively adjudicated, it is essential to bring the legal heirs on record.

Mr. Das, learned advocate appearing for the respondent no.5 submits that there is a delay in preferring these applications.

Heard the learned advocate representing the petitioners and perused the averments made in the applications.

Upon perusal of the averments made in the application, it appears that the legal heirs are all majors and sui juris. We are of the opinion that their presence is essential for the effective adjudication of the writ petition. Therefore, the applications, namely IA No. CAN 9 of 2024, IA No. CAN 10 of 2024, and IA No. CAN 13 of 2024, are allowed.

The delay in filing the application for setting aside the abatement is condoned, the abatement of the petition in respect of petitioner no. 1(b) is set aside, and the application for substitution is granted.

Let the legal heirs, as detailed in paragraph 2 of IA No. CAN 9 of 2024, be substituted in place of the deceased petitioner, Kamalesh Mondal.

The office is directed to make the necessary corrections to the cause title of the writ petition.

List the main writ petition appear for further consideration in the combined monthly list of March, 2025.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)