

12.12.2023
Court No. 19
Item no.29
CP

C.O. No. 1514 of 2023

Sisir Mandal & anr.
Vs.
Sk. Nazrul Islam & ors.

Mr. Dinabandhu Chowdhury
Mr. Amal Kumar Saha
Mr. Iresh Paul
Mr. Soumyadip Panda

.....for the petitioners.

Mr. Arnab Roy
Mr. Satyam Mukherjee
Ms. Sayani Ahmed
Mr. Purnendu Shekhar Ghosh

.....for the opposite parties.

The petitioners have challenged the order dated April 11, 2023, passed by the learned Civil Judge (Junior Division), 1st Court, Barasat in Title Suit No. 311 of 2002. (renumbered as Title Suit No. 8380 of 2014). Upon death of the defendant no. 2, the petitioners filed an application for substitution. The learned court rejected the said application on the ground that the suit had abated against the said defendant.

It is contended by Mr. Chowdhury, learned advocate for the petitioners, that the learned court ought to have allowed an opportunity to the petitioners/plaintiffs to take steps by filing an application for setting aside abatement, upon condonation of delay.

Mr. Roy, learned advocate for the opposite parties, submits that the court had permitted them to take steps. The order impugned reflectes so.

Thus, the order impugned is modified to the extent that the petitioners will be at liberty to file an appropriate application, in accordance with law, for substitution of the heirs and legal representatives of the defendant no.2, upon setting aside abatement, upon condonation of delay.

Let such application be filed within a month from the date of communication of this order. The learned court shall proceed in accordance with law.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)