

10.01.2023
Item No.6
Ct. No.7
CHC
(disposed of)

C.O. 2390 of 2022

**Amar Nath Samanta
Vs.
Saraswati Trust Estate**

Mr. Shyamal Chakraborty,
Mr. Debajyoti Mondal
...for the petitioner

Mr. Deb Kumar Chandra
...for the opposite party

Subject-matter of challenge in this case is against the order dated 17th May, 2022, filed by the petitioner/appellant intending to implead all the legal heirs, left by the deceased mother/appellant in Title Appeal No.14 of 2021.

Mr. Chakraborty, learned advocate appearing for the petitioner submits that out of inadvertence, only the son left behind by the deceased-appellant proposed for impleadment, leaving other four legal heirs unjoined in the appeal.

The innocuous proposal raised by Mr. Chakraborty is that the application proposing substitution has been filed within the time, and such inadvertent mistake may be condoned.

Per contrary, Mr. Deb Kumar Chandra, learned advocate appearing for the opposite party submits

that in an appeal all the legal heirs after the demise of a party to the appeal should be brought on record subject to filing an application in accordance with law.

When there is an application already filed, the same needs to be considered in accordance with provisions of law. No further elaboration is felt necessary.

The impugned order is set aside with a direction upon the court below to rehear the same, and dispose of in accordance with law within four (04) weeks from the date of communication of this order to the court below so that an opportunity may be granted to the legal heirs of the deceased-appellant, sought to be impleaded in this case.

With this observation/direction, the revisional application stands disposed of.

Parties are directed to communicate this order to the court below.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)