

28.08.2023
Item No.10
Ct. No.5
CHC

**WP.ST 356 of 2013
IA NO: CAN/1/2023
CAN/2/2023**

**Sri Susanta Kumar Chowdhury
Vs.
Shri H. K. Dwivedi & ors.**

Mr. Mukul Lahiri, Sr. Advocate
Mr. Anindya Lahiri
...for the petitioner

Mr. Tapan Kr. Mukherjee, Sr. Advocate & A.G.P.
Ms. Tuli Sinha
...for the State

CAN/1/2023 is an application for setting aside of abatement and consequential relief.

The original writ petitioner expired on August 29, 2015. According to the applicant in CAN/1/2023, the original writ petitioner was survived by the applicant as his widow and their daughter. The application for setting aside of abatement and substitution of the original writ petitioner, proceeds on the basis that the applicant, the widow of the original petitioner will be substituted as the petitioner and the daughter of the deceased original writ petitioner as the proforma respondent.

Both the heirs and legal representatives of the original writ petitioner, as appearing from the pleadings in the application for setting aside of the

abatement are not willing to proceed with the writ petition as substituted petitioners.

Moreover, there is a question of delay of about 7 years in making and filing the application for substitution.

The application for setting aside the abatement does not allude to the date of knowledge of the pendency of the proceedings and steps taken for substitution.

In our view delay is also not explained. We remind ourselves that we, as a Court consider leniently any explanation for delay. In the facts of the present case, we do not find that there is any explanation for the delay caused.

In such circumstances, we are not in a position to allow the application for setting aside of the abatement and the substitution of the original petitioner.

CAN/1/2023 is dismissed.

In view of our order in CAN/1/2023 no order need be passed in CAN/2/2023.

The writ petition being WP.ST 356 of 2013 be disposed of as abated.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)