

19.09.2023

Sl. No.85.

Mithun

Ct.No.42.

WPA 24942 of 2010

With

IA No: CAN/1/2015 (Old No: CAN/10707/2015)

Champalal Bhandari & Ors.

Vs.

State of West Bengal & Ors.

The instant writ petition was filed by one Champalal Bhandari. During the pendency of the writ petition, the said Champalal Bhandari expired. An application for substitution was filed contending, inter alia, that the petitioner had left a Will and on the basis of the said will, the legatee being the beneficiaries wanted to be impleaded as petitioners in the instant writ petition. The said application being CAN 10707 of 2015 was placed before the Registrar (Administration) for hearing. Relying on a decision of the Hon'ble Supreme Court in ***Naraindas Adnani & Ors. Vs. Narsingdas Naraindas Adnani & Ors.*** reported in ***1995 Supp(1) SCC 312*** it was rightly held by the Registrar (Administration) that in view of Section 213 of the Indian Succession Act, an executor of an unprobated Will cannot be impleaded in a proceeding under the provision of Order 22 Rule 3 of the Code of Civil Procedure on the death of the testator of the said Will. All the legal heirs

and representatives are to be impleaded. Subsequent to passing of the said order, the legal heirs and representatives of the original writ petitioner did not take any step. Thus, the instant writ petition abets.

(Bibek Chaudhuri, J.)