

18
03.7.2023
Ct. 236
SB

C.O. 3717 of 2014

In the matter of : ABP Pvt. Ltd. & Anr.

Mr. Chayan Gupta
Mr. Soumitra Dutta ... for the petitioners

Affidavits of service dated 16.12.2014 and 27.6.2013 are taken record.

This application under Article 227 of the Constitution of India challenges the Order No. 75 dated 11.7.2014 passed by the learned Civil Judge, Senior Division Jalpaiguri in a Money Suit No. 3 of 2004.

Heard Mr. Gupta, learned counsel appearing on behalf of the petitioners.

From the attending facts of the case it is admitted that Sri Bikramaditya Singh filed a suit claiming damages for defamatory news items published in the daily newspaper known as Ananda Bazar Patrika.

During pendency of the suit, the plaintiff Bikramaditya Singh passed away and his legal heirs and successors filed an application under Order 22 Rule 3 of the Code of Civil Procedure.

Learned Trial Court was pleased to allow the application.

It is rightly contended by Mr. Gupta that since no decree was passed, right to sue cannot be said to have been surviving upon the legal heirs of the plaintiff in a suit for defamation. It goes without saying that a cause of action for defamation does not survive the death of the plaintiff, since this is a personal

action and it dies with the death of the person aggrieved on the *maxim actio personalis moritur cum persona*.

Learned Trial Court in my humble opinion failed to exercise jurisdiction properly, as vested in it.

The order impugned should not be allowed to remain in force and is set aside.

With this the revisional application is disposed of.

Interim order of stay, if any, stands vacated.

Copy of the order be sent down to the learned Trial Court with a request to dispose of the suit in accordance with law.

(Siddhartha Roy Chowdhury, J.)