

Item No.206 (M.L)
13.11.2024
Court. No. 5
S.Kundu

C.O. 1106 of 2024

Manju Ghosh & Ors.
Vs.
Gadu Mondal

Mr. Avinaba Patra,
Mr. Dipanjan Kundu

...for the Petitioners.

1. Challenging the order no. 03 dated 1st December, 2023 passed by the learned Civil Judge (Junior Division), 1st Court at Krishnanagar, Nadia in Title Suit No. 225 of 2023 whereby, the petitioners' application under Order XXII Rule 3 of the Code of Civil Procedure had been rejected, the instant revisional application has been filed.
2. The learned advocate for the petitioners would submit that the original plaintiff had died on 2nd August, 2023 and the application under Order XXII, Rule 3 was filed on 1st December, 2023.
3. It may be noted that the learned trial Judge by the aforesaid order has been pleased to reject such application by recording that the suit has abated.
4. That on perusal of the aforesaid application for substitution it would demonstrate that there is no prayer for setting aside the abatement. As such this Court does not find any scope to interfere.

5. At this stage learned advocate would submit that leave may be granted to the petitioners to apply before the trial Court.
6. I am of the view that no such leave is required.
7. Accordingly, the revisional application is dismissed.
8. Dismissal of the aforesaid application shall, however, not stand in the way of the petitioners applying before the learned trial Court for setting aside the abatement.
9. If such application is made, the learned Court shall consider the same in accordance with law.
10. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(Raja Basu Chowdhury, J.)