

February 6, 2024
Sl. No.11
Court No.19
s.biswas

CO 2057 of 2023

Sri Shankar Shaw

vs.

Sri Nani Gopal Dey

Mr. Neil Basu
Mr. Rahul Kumar Singh
Mr. Sankha Biswas

... for the petitioner

The order impugned has been passed by the learned Civil Judge (Junior Division), 2nd Court at Alipore, dated May 3, 2023, in Title Suit No.669 of 2018.

By the said order, the application for substitution of the heirs and legal representatives of the sole plaintiff was allowed.

The learned advocate for the petitioner/defendant submits that the application for substitution was delayed. Without an application under Section 5 of the Limitation Act, seeking condonation of delay, the substitution could not be allowed. The original application was filed before the learned court by the heirs of the deceased son of the original plaintiff, who also died during the pendency of the suit. The application was filed on the understanding that the application was not barred by limitation.

When the defendant raised such objection, learned court calculated the delay and was of the

view that upon excluding the period during the COVID pandemic on the basis of the order of the Hon'ble Apex Court, there was delay of only two days. Thus, the learned court, for the ends of justice, condoned the delay on condition that an application for condonation should be filed immediately.

This court finds that such order was passed for the ends of justice and only to shorten the litigation. Delay can also be condoned on oral prayer.

Thus, the order impugned is not interfered with. However, the substituted heirs can be allowed to participate in the proceedings once the court finds that the application for condonation is filed and the same is regularized by the learned court on the basis of the order dated May 3, 2023.

The revisional application is accordingly disposed of.

All the parties are directed to act on the basis of the server copy of the order.

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)