

Court No. 6
(265719)

24.09.2025
(AD 22)
(S. Banerjee)

CO 3474 of 2025

Smt. Radharani Ghosh & Ors.
Vs.
Smt Ashalata Ghosh & Ors.

Mr. Diptomoy Talukder
Mr. Triptimoy Talukder
Mr. Dibyendu Ghosh

...for the petitioners

Mr. Ashis S.

...for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against order no. 102 dated June 10, 2025 passed by the learned Additional District Judge, 2nd Court, Hooghly in Title Appeal No. 210 of 2006. By the order impugned, the application filed by the appellant/opposite party for bringing on record the left out legal heirs of the deceased opposite party no. 4, were allowed.

Learned advocate appearing for the petitioners submits that the application for substitution was filed after expiry of 90 days from the date of death of the respondent no. 4, namely Barendra Nath Ghosh. He, therefore, submits that the title appeal stood abated and in the absence of any prayer for setting aside

abatement upon condonation of delay, the heirs of the deceased respondent could not have been allowed to be brought on record.

Heard the learned advocate appearing for the opposite parties on such submission.

On a query of the court, the learned advocate appearing for the petitioners, did not dispute the fact that the estate was represented by the heirs of the deceased defendant, and the said application was filed for bringing on record the heirs of the respondent no. 4.

It is well-settled that if the estate is represented, there is no necessity to file an application for substitution as there is no abatement of the appeal and only the other heirs are to be brought in place of the deceased respondent in the title appeal.

The learned judge of the first appellate court assigned cogent reasons for allowing the prayer for bringing on record the legal heirs of the deceased respondent no. 4. This court does not find any reason to interfere with the same.

Accordingly, CO 3474 of 2025 stands dismissed.

(Hiranmay Bhattacharyya, J.)