

C.O. 2983 OF 2023

14.05.2026

Sl no. 13
Ct no. 2
P.M.

**Shree Shree Jogeshwarareshwar
Mahadeb Deb Thakur represented
by Salil Kumar Mishra**

**- Vs -
Khairul Islam & Ors.**

Mr. Prabal Kumar Mukherjee, Sr. adv,
Mr. Swarnava Ray
... for the petitioner
Mr. Mukteswar Maity,
Ms. Manika Sarkar
... for the respondent No. 1 to 6

1. Present petition has been filed challenging the order dated 21st July, 2023 passed by learned Civil Judge, Junior Division, 2nd Court, Jangipur, Murshidabad whereby the application under order 1 Rule 10(2) for deleting the name of deceased defendant No. 5 Reba Goswami was declined.
2. Learned court inter alia held that right to sue survive in this case and legal heirs of Reba Goswami are necessary party for proper adjudication of the suit.
3. However, learned Trial Court inter alia directed that since the legal heirs of Reba Goswami are not substituted within stipulated period of time suit stands abated against defendant No. 5.

4. During the course of submissions learned senior counsel for the petitioner submits that matter may be disposed of with a liberty to the petitioner to move an appropriate application under Order 22 Rule 9 sub Rule 2 for setting aside the abatement order.
5. Learned counsel further submits that consequent upon legal heirs of Reba Goswami also taken on record.
6. Learned counsel for the opposite party submits that order regarding substitution of legal heirs can be agitated before the learned Trial Court.
7. The Court has considered the submissions. Liberty is granted to the petitioner to move an appropriate application under Order 22 Sub Rule 9 of C.P.C. along with relevant provisions for setting aside the abatement order and followed by substitution of legal heirs of deceased defendant No. 5 in accordance with law.
8. With this observation this petition is disposed of.
9. Urgent photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all usual requisite formalities.

(Dinesh Kumar Sharma, J.)