

T.A- 06/2017 (Rege No. 1/2017)

Order no. 15

Dated 05-05-2018

Today is fixed for passing order in regard to the petition dated 04-05-2018 filed by Nabin Chandra Pandit praying for an order for deleting the name of respondent no. 2 from the cause title of the Memorandum of Appeal and for amendment of the cause title of the same.

Heard both sides. Considered. Perused the instant petition and other materials in the record.

The contention of the petitioner is that the respondent no. 2 Ganga Rani Das expired on 08-02-2018 leaving behind her 4 sons as her legal heirs and for that reason the name of Ganga Rani Das is to be deleted from the cause title of the Memorandum of Appeal and her legal representatives are to be substituted in that place. Hence, this petition.

The respondents dispute the contention of the petitioner stating inter alia that the instant petition is not in accordance with law as per the specific provision of law provided under the Civil Procedure Code, 1908.

Ld. Advocate for the petitioner submits that the petition is a very formal one. So it should be allowed for interest of justice as the respondents will not be prejudiced.

On the other hand, Ld. Advocate for the respondents submits that the petition has not been filed not as per the requirement of law and the fashion in which the petition has been filed cannot be entertained, so that, it should be rejected.

Considering the existing facts and circumstances of the case, materials in the record, submission of the respective parties and taking into account the specific provision of law provided under the Civil Procedure Code for dealing with the present situation of the Appeal I hold that the instant petition is not in accordance with law. So, it is liable to be rejected.

Hence, it is,

Ordered

That the petition dated 04-05-2018 filed on behalf of the petitioner Nabin Pandit is hereby rejected with the liberty to prefer petition afresh.

The instant petition is accordingly disposed of on contest without any order as to costs.

To 07-06-2018 for steps.

D/C by me

Additional District Sessions Judge
Ghatal, Paschim Medinipur

Order no. 16

Later.....

Today is fixed for passing order in regard to the petition dated 04-05-2018 filed on behalf of Sankari Pandit.

Heard both sides. Considered. Perused the instant petition, W/O and other materials in the record.

The contention of the petitioner is that the appellant no 2 Banamali Pandit expired on 03-01-2018. He was a bachelor. He died surviving his brother Nabin Pandit (appellant no. 1) and one sister namely Sankari Pandit. It is stated that the petitioner has become entitled to be substituted in place of the deceased appellant no. 2. Hence, this petition.

On the other hand the respondents dispute the contention and prays for rejecting the same.

Ld. Advocate for the petitioner submits that the instant petition is a formal one, so that it should be allowed for interested of justice, otherwise the petitioner shall suffer irreparable loss and injury.

On the other hand Ld. Advocate for the respondents submits in detail and prays before the Court that considering the present situation necessary order should be passed as per the discretion of the Court.

Considering the existing facts and circumstances of the case, materials in the record, instant petition, W/O and at the same time taking into account the submission of the respective parties I hold that if the instant petition be allowed, neither of the parties will be prejudiced.

Hence, for interest of justice,

it is,

Ordered

That the petition dated 04-05-2018 filed by the petitioner Sankari Pandit is hereby allowed as prayed for. The appellants/petitioners are to take steps.

The instant petition is accordingly disposed of on contest without any order as to costs.

To date.

D/C by me

Additional District Sessions Judge
Ghatal, Paschim Medinipur

