

MC 2061/2012
BEFORE
THE HON'BLE MR. JUSTICE N CHAUDHURY

Heard Mr. SP Roy, learned counsel for the petitioners. Also heard Mr. R Sarma, learned counsel appearing for respondent Nos. 1 to 4.

Mr. SP Roy, learned counsel for the petitioners submits that services on all the respondents is complete but no one has entered appearance to contest the application.

In paragraph 13 of the application, it is stated that respondent Nos. 10, 15, 19 and 20 died during pendency of the appeal. He submits that these respondents were served with notices before their death and the engaged learned counsel on their behalf did not inform the Court about the death of the deceased respondents as required under Order XXII Rule 10 A of the CPC. Subsequently, the petitioners came to know about the same and hence there is delay. According to the petitioner, he is not guilty of any laches and negligence.

Since no affidavit-in-opposition has been filed by the respondents, there is no reason to disbelieve the averments made by the learned counsel for the petitioners.

Misc. Case stands allowed.

As this Court has already observed that there was sufficient cause for not filing the application for setting aside the abetment in time, the abetment is set aside.