

D/L- 8
28/02/2025
Ct. No.-6
Aritra

C.O. 666 of 2025

Chalehar Bibi & Ors.
Versus
Chadera Bibi & Ors.

Mr. Swaraj Naskar

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiff Nos.1 to 5 and is directed against an order dated January 27, 2025 passed by the learned Civil Judge (Jr. Div.), 2nd Court at Barasat.

By the order impugned the application under Order 1 Rule 10 (2) of the Code of Civil Procedure stood rejected. The plaintiff No.7 died on February 21, 2020. The application under Order 1 Rule 10 (2) of the Code of Civil Procedure was filed only on December 13, 2024.

The learned advocate appearing for the petitioner submits that though the application was captioned as one under Order 1 Rule 10 (2) of the Code but the same is in substance an application under Order 22 Rule 3 of the Code of Civil Procedure.

It is well-settled that abatement is automatic. The petitioner in the impugned application has not prayed for setting aside the abatement nor the reasons for filing the said application at such a belated stage has been

explained in the application. The learned Trial Judge rightly noted that the suit has abated in so far as the plaintiff No.7 is concerned.

In view thereof this Court is not inclined to grant any relief to the petitioner herein.

Accordingly, CO 666 of 2025 stands dismissed.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)