

**IN THE COURT OF CIVIL JUDGE (S.D),
GOGARI, KHAGARIA**
PRESENT PRESIDING OFFICER SH. SUMIT KUMAR SINGH
TITLE SUIT NO. 23 OF 2015
IN THE MATTER OF:
ABDUL RAHIM & ORS. ...PLAINTIFFS

VERSUS

MD. JABBAR & ORS. ...DEFENDANTS

**ORDER
14.07.2022**

Present application dated 10.01.2022 has been filed by the plaintiffs under Order 22 Rule 4 CPC alleging inter-alia that defendant no. 2 Md. Mansoor Ali had died leaving behind his legal representatives who are required to be substituted. It has been submitted that right to sue had survived on the legal representatives. Hence, prayer has been made to substitute the LRs of deceased defendant no. 2.

defendants have objected the prayer on the ground that defendant no. 2 was sued in the capacity of President of Masjid Committee. As such the legal representatives of deceased defendant no. 2 may not be arrayed as defendant instead the present President of Masjid Committee ought to be arrayed.

Heard ld. Counsel for the parties and perused the record. Perusal of record shows that the plaintiffs have claimed their right over the suit land on the basis of Tamliqnama executed in their favor. It is the case of plaintiffs that the defendants have formed a Masjid Committee and included the property of plaintiffs. Then the

defendants started to claim the title of Masjid Committee and threatened the plaintiffs of forced dispossession.

Perusal of record shows that the defendants were sued as they are members of Masjid Committee. Perusal of averments made in the plaint shows that there is nothing on record to show that the defendants were sued in their personal capacity. However, by claver drafting the plaintiffs have not mentioned in their plaint as to why defendants have been arrayed except for the fact that they have formed a Masjid Committee and have claimed the title of Masjid Committee on the suit land. As such the management committee of Masjid Committee through the Secretary or President ought to have been arrayed. Hence, plaintiffs are directed to explain as to the capacity of defendants in the present suit.

List the matter on 22.07.2022.

Civil Judge (SD)