

Order no. 10 dt. 06.05.2026

Today is fixed for hearing petition u/o 1 rule 10(2) r/w Sec. 151 CPC and Sheristadar's report regarding counter-claim filed by defendant nos. 17 to 20.

Perused the petition u/o 1 rule 10(2) r/w Sec. 151 CPC.

By the said petition, the defendant nos. 21 to 23 have prayed for expunging their names from the cause title of the plaint on the ground that Ananta Kumar Malik was the 16 annas owner of the suit property and he transferred the entire property to the predecessor of these defendants and therefore, the instant suit for partition is not maintainable against these defendants. Ld. Advocate for the defendant nos. 17 to 20 has submitted that the suit property belonged to Ananta Kumar Malik and Monmotho Malik in equal share and therefore, Ananta Kumar Malik was not the absolute or exclusive owner of the suit property. It has been submitted further that defendant nos. 17 to 20 are the legal heirs of Monmotho Malik, since deceased. Ld. Advocate for the plaintiff and Ld. Advocate for the defendant nos. 4 & 5 have submitted that the petition filed by the defendant nos. 21 to 23 is not maintainable and their names cannot be expunged because according to the plaintiff and these defendants, the alleged deeds, if any, in favour of the predecessor of defendant nos. 21 to 23 are fraudulent deeds and not binding upon the parties to the suit.

If the names of the defendant nos. 21 to 23 stand expunged on the ground as stated above, it would establish the title of these defendants in the suit property prior to trial of the suit and that would not be fair and it would adversely affect the rights of the parties to the suit and would further cause prejudice to the parties to the suit.

The controversy involved in the suit cannot be disposed of without oral evidence being led on merit. The dispute is to be tested by trial on evidence.

In view of the above deliberation, the petition u/o 1 rule 10(2) r/w Sec. 151 CPC by defendant nos. 21 to 23 appears to be a misconceived one and the same stands rejected. Plaintiff files a petition for extension of ad-interim order of injunction. The same stands extended till next date.

To 25.06.2026 for SDR report and steps.

D/C by

Civil Judge (Sr. Divn.)
Addl. Court, Hooghly.

Civil Judge (Sr Divn)
Addl. Court, Hooghly.
JO CODE WB 00588