

T.S. - 614 of 2022

Order No.11 Dated 02/08/2023

Today is fixed for hearing of petition filed by the plaintiff u/o. 22 Rule 4 of the Civil Procedure Code praying for substitution of legal heirs of deceased defendant No. 5.

Plaintiff is present by filing hazirah along with a petition supported by affidavit praying for extension of ad-interim injunction.

Defendant No. 1 to 4 and defendant No. 6 filed separate hazirah through their respective learned Advocate.

Defendant No. 7 and 8 (State of West Bengal and BL&LRO, Garhbeta-I) filed hazirah along with a petition praying for time to file written statement.

It appears from the record that the suit is already running exparte against defendant No. 7 and 8 vide. order dt. 02.03.2023 therefore the time prayer filed by them is considered and rejected being misconceived.

Now the petition filed by the plaintiff u/o. 22 Rule 4 of the Civil Procedure Code praying for substitution of legal heirs of deceased defendant No. 5 is take up for hearing.

Heard learned Advocate for the plaintiff who submitted that defendant No. 5 namely Mithu Das has died leaving behind her only daughter namely Manidipa Das and for ends of justice she may be substituted in place of said deceased defendant.

Perused the petition.

Since this is a suit for partition involving a recurring a cause of action, therefore the period of limitation for substitution of legal heirs of a deceased party to the suit as provided in Article 120 of the Limitation Act shall not be strictly applicable to the case and therefore the prayer for substitution is found deserved to be allowed.

Accordingly, the plaintiff's prayer for substitution of legal heirs of deceased defendant No. 5 is considered and allowed at plaintiff's own risk.

The legal heirs of deceased defendant No. 5 namely **1. Manidipa Das (daughter)**, whose details is given in the petition today filed by the plaintiff, are hereby substituted as defendant No. 5(1).

Plaintiff is directed to take proper steps against the substituted defendants.

D.A. to note in the cause title of the plaint, accordingly.

Fixed 17.10.2023 for awaiting S/R and appearance of substituted defendant No. 5(1).

Plaintiff to file requisites in both ways, at once.

Plaintiff's prayer for extension of ad-interim injunction is considered and allowed and the order of ad-interim injunction is extended **till next date**.

Sd/- Gourab Ghosh (WB01100)
Civil Judge (Sr. Division)
2nd Court, Paschim Medinipur (H.Q.)