

Title Suit No. 39 of 2019

CIS No. 40 of 2019

CNR No. WBBK07-000124-2019

Present : Sri Tanumoy Karmakar (J.O. Code: WB01209)

Order no. 42

Dated 03-12-2024

Today is fixed for hearing of petition filed Order 22 Rule 3 of CPC by the plaintiffs, AD, W.O. & W.S. by defendants.

Memorandum of appearance filed by plaintiffs and defendant no. 7, 8 & 24.

Ld. Counsel on behalf of defendant no.7 & 8 filed one application with a prayer to adopt the W.S. filed by defendant no.24.

Heard both sides.

Ld. Counsel for the plaintiffs raised no objection against such prayer.

Accordingly the W.S. filed by defendant no.24 be treated as W.S. for defendant no. 7 &8.

Ld. Counsel for the plaintiffs draws my attraction towards one application under Order 22 Rule 3 of CPC which is pending since long and he proposed to move the application today.

Now the case record is taken up for hearing of the said application for speedy disposal of the case.

The crux of the application is that plaintiff no.2 namely, Pankaj Halder had expired on 03-05-2024 leaving behind his legal heirs and successors as Arpan Halder and Archan Halder, being his two sons as per Hindu Succession Act and plaintiffs intend to substitute the legal heirs of plaintiff no.2 in this instant suit.

It is pertinent to mention here that the instant suit has been filed for declaration and partition.

Accordingly, the legal heirs of plaintiff no.2 are necessary parties in this suit, because their civil rights are connected with this instant suit.

Considering the above noted circumstances, I find that I have no impediment to allow the application filed by the plaintiffs under Order 22 Rule 3 of the CPC.

Hence, it is,

Ordered,

that the application filed under Order 22 Rule 3 of the CPC is hereby allowed on contest, but without any order as to costs.

Let the legal heirs of plaintiff no.2 are hereby substituted.

D.A. is directed to incorporate the facts in the cause title of the plaint.

Accordingly, plaintiffs are directed to file substitute copy of plaint in the meantime.

On careful scrutiny of the case record it appears that summons were duly served upon defendant no.2 to 5, 10, 11, 13, 15, 19, 20, 22 & 25, but they did not turn up yet.

Accordingly, the instant suit is fixed for *ex parte* against defendant no.2 to 5, 10, 11, 13, 15, 19, 20, 22 & 25.

It is also pertinent to mention here that summons were not duly served upon defendant no. 1, 6, 9, 12, 14, 16 to 18, 21, 23 & 26.

Plaintiffs are directed to take fresh steps in respect of defendant no.1, 6, 9, 12, 14, 16 to 18, 21, 23 & 26 in the meantime.

To **17-02-2025** for filing substituted copy of plaint by the plaintiffs SR & AD in respect of defendant no. 1, 6, 9, 12, 14, 16 to 18, 21, 23 & 26.

Dictated & Corrected by me.

