

Ejectment Suit No. 35 of 2022
Present: Subhrajit Basu, Judge, Bench-IV
Jo Code: WB01238

Order No. 17

Date: 02.08.2024

The matter is fixed today for hearing of the application under Order 1 Rule 10 (2) of C.P.C filed by the plaintiffs dated 03.08.2023 and the application under Order 39 Rule 7 of C.P.C filed by the plaintiffs dated 15.11.2022.

Ld. Advocate for the parties are present.

On the last occasion, an intimation regarding death of defendant no.1 was filed by the Ld. Advocate for the defendant no. 2 along with copy of death certificate.

Today one application is filed by the plaintiffs praying for an order deleting the name of the defendant no. 1 from the cause title of the plaint upon treating the defendant no. 2 as a sole defendant in the instant suit.

It is stated in the petition that from the death certificate of defendant no.1 and from the affidavit affirmed by the defendant no. 2 with the Written Statement it would appear the defendants are siblings. It is further stated that the plaintiffs issued letter dated 24.07.2014 to the defendant no. 2 making inquiry regarding the particulars of the legal heirs of deceased defendant no. 1 but no reply thereto has yet been given. It is further stated that the plaintiffs have come to learn from other inhabitants of the suit building that the defendant no. 1 expired as a bachelor and his mother is also no more.

Copy of the application has been served upon the defendant no. 2.

Ld. Advocate for the defendant no.2 objects to certain statements made in the application but submits that his client does not want to file Written Objection against this application and appropriate order may be passed by this Court at risk of the plaintiffs.

This Court is of the view that it is up to the plaintiffs to make prayer for deletion of any party at their own risk.

Accordingly the application filed by the plaintiffs today is allowed.

Let the name of the defendant no. 1 be deleted from cause title of this suit at the risk of the plaintiffs.

The defendant no. 2 thus becomes the sole defendant in this suit.

The plaintiffs are directed to file amended copy of plaint on the next date.

Now as regards the application under Order 1 Rule 10 (2) of C.P.C, it is submitted by the parties that the defendant no. 2 has already filed Written Objection against the same.

Ld. Advocate for the defendant no. 2 submits that he has not yet received the copy of the application under Order 39 Rule 7 of C.P.C.

Copy of the said application is served in the course of hearing.

The matter be fixed on 13.09.2024 for filing amended copy of plaint and hearing of the applications under Order 1 Rule 10 (2) of C.P.C and hearing of the application under Order 39 Rule 7 of C.P.C. W.O., if any, in the meantime.

D/C by me

Sd/-

Judge, Bench-IV
City Civil Court, Calcutta

Sd/-

Judge, Bench-IV
City Civil Court, Calcutta

