

Title Suit 1212 of 2018

Present: Sri Sanjoy Kumar Das, Judge, Bench-V (WB00627)
Order No.40/ Dated 08.06.2026

Today is fixed for order.

Both parties filed hazira.

The record is taken up for passing necessary order.

Perused the application under Order VII Rule 11 of C.P.C. dated 11.05.2022, relevant written objection as well as materials on record.

Defendant no.2 namely, the Officer on Special Duty, Custodian of Enemy Property for India filed the above application under Order VII Rule 11 of C.P.C. dated 11.05.2022 and thereby raised a question to the effect that this court has no jurisdiction to entertain this suit in view of Section 18B of Enemy Property (Amendment and Validation) Act, 2017. So, defendant no.2 prayed for dismissal of suit in view of Order VII Rule 11(d) of C.P.C.

Plaintiff no.2 contested this application by filing written objection and denied all the material allegations. Plaintiff no.2 specifically contended that the instant suit is not filed to declare whether the property is an evacuee property or not. Rather plaintiffs filed this suit for declaration that they and the proforma defendants are the legal heirs of Sultan Mahmood and are the rightful joint tenants in respect of suit properties along with other declarations. So the suit is well maintainable.

On perusal of the materials on record, it appears that the property in question involved in this suit has already been vested in the custodian under the Notification No.12/2/65-E.Pty. dated 10.09.1965 and S.O. 5511 dated 18.12.1971 issued under Defence of India Rules, 1962 and 1971 respectively.

Section 18-B of Enemy Property Act, 1968 says “*Save as otherwise provided in this act, no civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any property, subject matter of this act, as amended by the Enemy Property (Amendment and Validation) Act, 2017 or any action taken by the Central Government or the custodian in this regard.*”

In the instant case, I have stated above that the suit property has been declared as Enemy Property and vested in the custodian of defendant no.2 vide Notification No.12/2/65-E.Pty. dated 10.09.1965 and S.O. 5511 dated 18.12.1971 issued under Defence of India Rules, 1962 and 1971 respectively.

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(2)

Title Suit 1212 of 2018

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Therefore in view of **Section 18-B** of Enemy Property Act, 1968 civil court shall have no jurisdiction to entertain any suit or proceedings in respect of any property which is the subject matter of this act. Since the property has already been declared Enemy Property and vested with the defendant no.2 vide Notification No.12/2/65-E.Pty. dated 10.09.1965 and S.O. 5511 dated 18.12.1971 issued under Defence of India Rules, 1962 and 1971 respectively.

Therefore, considering the entire discussion made above the application under Order VII Rule 11(d) of C.P.C filed by the defendant no. 2 should be allowed.

Hence it is

ORDERED

that the application under Order VII Rule 11(d) of C.P.C filed by the defendant no. 2 is allowed on contest but without cost.

Accordingly the plaint be and the same rejected.

D/c by me,

Judge, Bench-V
City Civil Court, Calcutta

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