

In the Court of Civil Judge (Jr. Divn.) Gangarampur at Buniadpur

Present: Shahid Parvez

Civil Judge (Jr. Divn.)

J.O. Code: WB01233

T.S 46 of 2018, Regd. No.- 46 of 2018

CNR No. WBDD07-000096-2018

Order No.- 34

18-05-2023

Today is fixed for order in respect of three petitions u/O 1 Rule 10 (2) of the CPC dated 05-01-2021, 01-12-2021 and 26-07-2022

Plaintiff, defendant files hazira. Ld. Adv. of the respective parties are present. The court heard the petitions and its objection on previous occasions.

Accordingly, the record is taken up for passing order.

Ld Adv of petitioners submitted that it is necessary to allow the instant petition and Md. Moktar Hossain and Minjarul Hossain to be brought as defendant nos. 8 and 9 of this suit since the plaintiff in paragraph 2 of the plaint has mentioned that he transferred 10 decimals of suit plot in favour of defendant no.7 vide sale deed No. 3989 dated 11-07-2014 and the name of defendant No.7 is Biswajit Mitra who transferred the 10 decimals in favour of the present petitioners hence they are required to be added as defendant Nos. 8 and 9. Ld Adv of plaintiff raised objection.

Court considered the petition and finds that Md. Moktar Hossain and Minjarul Hossain are necessary parties to the suit since the transfer was effected prior to the filing of the suit, as submitted by the Ld Adv of the petitioners. Accordingly, the petition dated 05-01-2021 u/O 1 Rule 10 (2) of the CPC is considered and allowed on contest and **Md. Moktar Hossain and Minjarul Hossain are hereby brought on record as defendant Nos. 8 and 9.** Plaintiff is directed to file the amended plaint and take steps.

Now the petition dated 01-12-2021 is taken up for hearing.

Ld Adv of petitioner submitted that it is necessary to allow the instant petition Deepali Mondal to be brought as defendant nos. 10 of this suit since the plaintiff has mentioned in the plaint that the previous owner of the suit property was Nripendranath Rakhit, Narendranath Rakhit, Rabindranath Rakhit and Bhavesh Chandra Rakhit who purchased the same on 26-11-1952 vide sale deed No. 8294 from the previous owner to the extent of 47 decimals and their names were duly recorded in the concerned Khatian. Bhavesh Chandra Rakhit and the other two persons sold 35 decimals of property in favour of the plaintiff but Narendranath Rakhit has not sold his property. Plaintiff sold 10 decimals of property in favour of Biswajit Mitra in the year 2019. Narendranath Rakhit's legal heir vide deed No. 1362 of 2020 and deed No. 1579 of 2020 transferred the property. The concerned BL&LRO and DL&LRO recorded Khatian No.1841 accordingly. The petitioner purchased 12 decimals of property and hence she may be added as defendant No.10. Ld Adv of plaintiff raised objection.

Court considered the petition and finds that the petitioner Deepali Mondal purchased the property during the continuance of the suit and hence it is needless to mention that the said transfer is bound by the doctrine of lis-pendense, accordingly the petition is considered and rejected on contest.

Now the petition dated 26-07-2022 is taken up for hearing.

Ld Adv of petitioner submitted that it is necessary to allow the instant petition Ashutosh Sarkar to be brought as defendant nos. 11 of this suit since the plaintiff has mentioned that Jagdish Chandra Sarkar is defendant No.5 who transferred 9 decimals of property in the year 2018 vide gift deed No. 842 in favour of his son namely Ashutosh Sarkar and accordingly he is required to be brought on record as defendant No.11. Ld Adv of plaintiff raised objection.

Court considered the petition and finds that the petitioner has mentioned that he got the 9 decimals of property from defendant No.5 and that to during the pendency of the suit. It is needless to mention that the said transfer is bound by the doctrine of lis-pendense, accordingly the petition is considered and rejected on contest.

Fix 29-08-2023 for filing amended plaint, step and petition hearing dated 18-05-2023.

D/C by me

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