

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.- 36

04-01-2024

Today is fixed for filing amended plaint, step and petition hearing dated 18-05-2023.

Plaintiff, defendant Nos. 3 and 6 files hazira. Ld. Adv. of the said parties are present.

Plaintiff files a time petition for steps which is considered and allowed. Due to inadvertent mistake the petition hearing dated 18-05-2023 has been mentioned instead of 03-04-2023, hence the same is modified to this effect.

Now the record is taken up for hearing the expunge petition filed by the plaintiff on 03-04-2023.

Ld Adv of the plaintiff submitted that the defendant Nos. 3 and 4 do not have title and possession over the suit property and plaintiff do not seek any remedy against defendant Nos. 3 and 4. Hence, they are required to be expunge from the cause title of the plaint. Ld Adv of plaintiff also submitted that the concerned BL&LRO Banshihari on 10-11-2020 has ordered in Misc case No. 20/Misc/Banshi/2020 that the deed Nos. 3452 and 3453 dated 07-07-2017 of Kakoli and Bishnu Sarkar were unlawful and accordingly Khatian NO. 1367 and 1358 were improper, irrelevant and bad in the eyes of law.

Ld of defendant Nos. 3 and 4 submitted that the expunge petition is liable to be rejected since defendant nos. 3 and 4 wants to contest the suit and they have filed the W.S on 03-04-2023 by way of put up petition along with the petition to vacate ex-parte. The copy of the W.S and the said petitions have been served upon the Ld Adv of the adverse party. The W.S is coupled with the counterclaim.

The court finds that the said defendants have filed their W.S through Prashanto Pal on the strength of power of attorney which is also filed by the said defendants on the same date in the court. The said defendants have also the counterclaim in respect of the suit property.

Ld Adv of the defendant No.6 submitted that the plaintiff do not have any possession over the suit property.

It is settled position of law that the finding and observation of the BL&LRO is not binding upon the Civil Court while dealing the suit for declaration of title. Needless to mention that BL&LRO cannot adjudicate the title of the parties to the suit. Defendant No.6 has also raised contention against the plaintiff. Since the defendant nos. 3 and 4 wants to contest the suit while having the counterclaim in their W.S, so the court holds that they must get the opportunity to contest the suit for proper adjudication of the suit and it cannot be said that the plaintiffs will be adversely affected if defendant Nos. 3 and 4 contest the suit.

In view of the above discussion and findings, it is hereby,

ORDERED

that the W.S filed by defendant nos. 3 and 4 by Prashato Pal on the strength of power of attorney is considered and accepted. The petition to expunge the name of defendant nos. 3 and 4 dated 03-04-2023 is considered and rejected on contest.

Fix 21-03-2024 for filing amended plaint and step.

D/C by me

Civil Judge (Jr. Div.)
Gangarampur at Buniadpur
Dakshin Dinajpur
04-01-2024
J.O.Code:WB01233

Civil Judge (Jr. Div.)
Gangarampur at Buniadpur
Dakshin Dinajpur
04-01-2024
J.O.Code: WB01233