

Title Suit 07/2019 (CIS 02/2019)

WB 01110

Order No. 55 dated 19.11.2024

Today is fixed for passing order relating to the petition filed by the plaintiff decree holder on 12.09.2024. The plaintiff file hazira. The record is taken up for passing order.

By filing instant petition the plaintiff inter alia prayed for amending the ordering portion of order no. 50 dated 12.06.2023 and declare the right of all the co-sharers individually i.e. the plaintiff and the defendants which had not been declared in the aforesaid order by which this Court passed preliminary decree ex-parte.

Perused the record. On perusal of the order it transpires that only 2/3 share of the plaintiffs was declared and moreover the share of the defendant had not been declared vide order no. 50 dated 12.06.2023 and when the plaintiff filed petition under Order XX Rule 18 such omission had been detected.

In this circumstances, before proceeding with the process of separate allotment of the share by way of final decree the share of each parties to be determined by modification of the preliminary decree by invoking power given to the Court u/s 151 of CPC.

Hence, it is

Ordered

that the ordering portion of order No. 50 date 12.06.2023 is modified to the extent that, it is here by declared that the plaintiff no. 1 is entitled to get 1/3rd share i.e. 9 decimals of land in the 'C' Schedule property. Plaintiff no. 2 is entitled to get 1/3rd share i.e. 9 decimals of land in the 'C' Schedule property and defendant no. 1,2 and 3 are jointly entitled to get 1/3rd share i.e. 9 decimals of land i.e. 1/27th share each in the 'C' Schedule property.

The rest part of the order shall remains same.

The Sherishtadar is directed to modify the preliminary decree as per the this order.

Fix **12.12.2024** for hearing of the final decree petition.

D/c by me,

Sd/-
CJSD, Kalimpong.

Sd/-
CJSD, Kalimpong.