

PS 02/2017
CIS No. PS 168/2017

Order No.49

Dated 19.08.2026

Today is fixed for hearing and fresh step.

Both parties are present by filing hazira.

Plaintiff prayed for time to file WO and fresh step. The time petition is **rejected** due to taking of time by the plaintiff time and again.

Now the petition under Order VI Rule 16 read with Order VII Rule 11 of CPC is taken up for passing order.

By filing the instant petition, defendant no.1 Ka and 1 Kha submits that the suit plot no.6225 measuring 16 decimal is an exclusive property of their predecessor (erstwhile deceased defendant no.1) namely Kamrul Hoque. To meet this pleading, they submitted four registered hebanama deeds being no.2974/1980; 2973/1980; 2975/1980 and 2971/1980.

It is quite surprising that in plaint though plaintiffs mentioned the plot no.6225 in schedule GA, did not spend a single line in the plaint to describe how he or parties derived title in this plot of land.

Moreso, by filing written statement on 30.01.2017 the details of plot no.6225 along with the details of the aforesaid registered deeds have duly been described by erstwhile deceased defendant no.1 and the same is adopted by defendant no.1 Ka and 1 Kha.

This is a partition suit and the main criteria for filing this suit is that plaintiff must have the share in the suit plot which he sought for partition. But, in this suit, particularly regarding plot no.6225 plaintiff could not provide any prima facie document which goes to show his share in this plot. On the contrary, defendants submitted registered deeds in their favour.

At this stage, the provision of Order VI Rule 16 CPC comes and plays a crucial role which provides "The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading—

- (a) which may be unnecessary, scandalous, frivolous or vexatious, of
- (b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or
- (c) which is otherwise an abuse of the process of the Court."

Considering all these things, I am of the view that the plot no.6225 of mouja Salar has to be struck out from the schedule GA of the plaint.

(Cont...)

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(Cont...)

Hence it is

ordered

that the petition under Order VI Rule 16 read with Order VII Rule 11 of CPC filed by defendant no.1 Ka and 1 Kha dated 20.02.2026 is hereby **allowed** on contest without order of cost.

That the plot no.6225 of mouja Salar be struck out from the schedule GA of the plaint.

Note in the plaint.

As plaintiff has not taken proper step upon the defendants, given his nonchalant approach, is directed to show cause as to why the suit shall not be dismissed for non prosecution.

Given the age of the case record, fix **13.11.2026** for s/c by the plaintiff, i/d dismiss.

D/C by me,

Civil Judge (Sr. Div), Kandi,
Murshidabad

Civil Judge (Sr. Div), Kandi,
Murshidabad
JO Code : WB01271