

T.S. 127 of 2013 (CIS 85 of 2015)

Order No. 91 Dated: 24.04.2025

Today is fixed for passing order in respect of the application u/Or 1 R 10(2) and filing of the amended plaint.

Both parties filed hazira.

Ld. Advocate on behalf of the applicant stated that the plaintiff No. 2 Sethi Agrotech Private Ltd. During the pendency of the proceedings of this suit has transferred 35 decimals of the suit property in favour of one Patni Management Consultancy Private Ltd. by virtue of the registered deed of conveyance dated 29.03.2017. Patni Management Consultancy Private Ltd. had filed an application u/Or 1 R 10(2) in this suit on 19.09.2019 for adding them as a party to the suit. During the pendency of that application the Patni Management Consultancy Private Ltd. and one Singur Properties Private Ltd. what amalgamated into the company of DNV Food Products Private Ltd. vide order dated 28.12.2020 of the Hon'ble National Company Law Tribunal. The said application u/Or 1 R 10(2) was dismissed by this Court vide order dated 18.06.2022. The applicant has stepped into the shoes of the Patni Management Consultancy Private Ltd. pursuant to the order dated. 28.12.2020 and thus became the owner of the suit property. The plaintiff No. 2 has also filed his consent on affidavit. Hence the applicant prays for his addition as plaintiff No. 3 in the instant suit and permit the applicant to file the amended plaint and carry necessary amendments in the plaint and to contest the instant suit as one of the plaintiffs.

Ld. Advocate for the defendants raised vehement objection stating that it is barred by law of limitation. The applicant has no right, title, interest over the suit property.

Heard. Considered.

On perusal of the record it appears to the Court that the plaintiff Nos. 1 and 2 have purchased the suit property in the year 1988 and 2006 and became the joint owner of the said suit property. Plaintiff No. 2 sold the suit property to Patni Management Consultancy Private Ltd. in the year 2017 during the pendency of the instant suit. The said Patni Management Consultancy Private Ltd. got amalgamated one M/s DNV Food Products Private Ltd. vide order dated 28.12.2020 of the Hon'ble National Company Law Tribunal. It is revealed from the record that Sethi Agrotech Private Ltd. and Patni Management Consultancy Private Ltd. has authorized the

same person to conduct the suit that very person is still conducting the case. The instant application was filed on 17.12.2022 and the application for substitution by Patni Management Consultancy Private Ltd. was filed in 2019 which was dismissed in 2022 by the order of this Court due to non-submission of proper documents. It is pertinent to mention here that the sale of the property took place in the year 2017. The applicant has miserably failed to adduce evidence to show that they have no knowledge of their pendency of the instant suit and also omission on the part of the applicant to be added as plaintiff is made in good faith.

The general rule is that whenever a new party is added in a suit the suit must as regard to that party is deemed to be instituted when so made as a party. Proviso to Clause 1 of Section 21 of Limitation Act, 1963 clearly states that where the Court is satisfied that the omission to include a new plaintiff or defendant was mistake due to good faith it may direct that the suit as regards such plaintiff or defendant shall be deemed to have been instituted on any earlier date. Moreover, Clause 2 of the said section overrides Clause 1 in the cases of assignment.

The applicant herein prays for addition as a party. So the instant suit with regards to the applicant i.e. DNV Food Products Private Ltd. is said to be deemed to be instituted on the date of the institution of the suit.

Hence it is

Ordered

That the application dated 17.12.2022 filed by DNV Food Products Private Ltd. u/Or 1 Rule 10(2) is hereby allowed on contest without any order as to cost and disposed of.

The name of the applicant be added as Plaintiff No. 3.

Plaintiff is directed to file the amended plaint.

Fixing 21.08.2025 for filing of the amended plaint.

Dictated & corrected by me

CJ

Civil Judge (Jr.Div.)

Amta, Howrah