

Title Suit 143 of 2022

Order No. 9 dated: 03.01.2024

Today the record is placed before me by way of put up which is allowed.

Plaintiff filed one petition under Order 22 Rule 4 of CPC and another petition for expunge.

The petition under Order 22 Rule 4 of CPC is taken up for hearing.

Ld. Advocate for the defendant was present in the Court and duly received the copy of the petitions.

Heard learned advocate for the plaintiff who submitted that the defendant No.2 Ayesha Khatun Bibi died on 10.12.2023 leaving behind her four sons and one daughter as her legal heirs and successors. Out of which the name of one son is already on record as defendant No.1. Learned advocate prayed for substituting the aforesaid legal heirs of the defendant No.2 in place of the deceased defendant.

Ld. Advocate for the defendant raise no objection.

On perusal of the instant petition and the materials available on record it is found out that the defendant No.2, Ayesha Khatun Bibi died on 10.12.2023 and the instant petition was filed on 03.01.2024. This Court is of the opinion that the instant petition has been filed within the limitation period. So this Court finds no impediment in allowing this petition.

Later,

The petition for expunge is taken up for hearing.

Ld. Advocate for the defendant raised no objection.

Ld. Advocate for the plaintiff stated that proforma defendant No. 8 Mokim Mallick died on 16.08.2023 leaving behind defendant No. 9 & 10 as his legal heirs and successors and their names are already on record.

So, the plaintiff prays for expunging the name of deceased defendant No. 8.

This Court is of the opinion that there is no impediment in expunging the name of deceased defendant No. 8 as his legal heirs are already on record as defendant Nos. 9 & 10.

The name of defendant No. 8 be expunged from the cause title of the plaint. Hence, it is

Ordered

that the instant petition for expunge and under Order 22 Rule 4 of CPC is considered and allowed and disposed of on contest. Let the aforesaid legal heirs of the deceased defendant No.2, be substituted in his place as defendant no.2(ka) Sk. Mohammad Faruk, 2(Kha) Sk. Mohammad Mabud, 2(Ga) Sk. Mohammad Sahabuddin 2(Gha) Marufa Begum.

Ld. Advocate for the plaintiff is directed to file an amended plaint.

BC-I to make necessary note in the cause title of the plaint.

Fixing **01.02.2024** for filing of amended cause title of the plaint by incorporating the name of the legal heirs of defendant No. 2 and taking steps on all the substituted defendants who were substituted in the case till date.

D/c & by me

CJ

**Civil Judge (Jr Divn)
Amta, Howrah**