

Title Suit – 83 / 2019 (C.I.S. 83 / 2019)
(C.N.R. WBHW07- 000 -)

Order No. 22 dated 10.02.2023

Today is fixed for hearing the application u/s 21(3) of the WBLR Act filed by the plaintiff.

Both parties are present.

The instant application is accordingly taken up for consideration.

Heard the Ld. Advocate of the plaintiff who submitted that the plaintiff has been solely cultivating the suit property as a Bargadar. However, defendant no. 1 has in his written statement disputed this fact and has on the contrary alleged that the suit property is exclusively cultivated by the aforesaid defendant. Ld. Advocate of the plaintiff referred to sections 18(2) and 21(3) of the West Bengal Land Reforms Act and submitted that the question whether a person is a Bargadar or not can be decided only by the officer or the authority mentioned in section 18(1) of the said Act. Ld. Advocate, therefore, contended that in view of the dispute raised by defendant no. 1 regarding the cultivation of the suit property, the plaintiff has filed the instant application so that the aforesaid dispute could be referred to the appropriate authority for proper adjudication.

On the other hand, the Learned advocate for defendant no. 1 submitted that the instant suit filed by the plaintiff is one for declaration and permanent injunction. It is contended by the learned advocate that the plaintiff has filed the present suit claiming himself to be Bargadar in respect of the suit properties. Learned advocate submitted that the plaintiff has no right, title or interest whatsoever in the suit properties even though he has prayed for declaration from this court to the effect that he is in possession of the suit property as a Bargadar. Learned advocate further contended that, on the contrary the suit property is under the private cultivation of defendant no. 1 ever since he purchased the same vide a registered sale deed. Ld. Advocate, therefore, prayed for rejection of the instant application.

This Court has given due consideration to the submission made by the Ld. Advocates of the parties. This Court has also minutely gone through the instant petition as well as the plaint of the present suit. It is significant to note that from the pleading of the plaintiff it is evident that the suit property is a Debottar property which is recorded under LR Khatian no. 334/1 in the name of Sri Sri Jhareswar Jew Thakur. It is a matter of consternation that despite the fact that the suit property is a Debottar property, the said Sri Sri Jhareswar Jew Thakur has not been impleaded as a party in this suit. It is the considered view of this Court that the instant suit cannot be proceeded with until Sri Sri Jhareswar Jew Thakur is impleaded as a party in the instant suit. Accordingly, the instant application filed by the plaintiff is disposed of by this Court as premature without going into the merits of the same, as the instant application has been filed by the plaintiff without impleading in the instant suit the titleholder of the suit property under whom he has claimed to be a Bargadar. This, Court hereby directs the plaintiff to take necessary steps forthwith for impleading Sri Sri Jhareswar Jew Thakur as a party in the instant suit.

The instant petition stands disposed of in terms of this order.

To 10.05.2023 for steps by the plaintiff in terms of this order.

D/C by me

C. J. (Jr. Divn.)
Amta, Howrah
(JO Code WB 01195)

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