

Partition Suit No. 12 of 2010
[CIS 958 of 2015]

Order No. 34 dated 17/09/2024.

Today is fixed for for SR APP.

Plaintiff is present by filling Hazirah along with two petition one praying for substitution of remaining legal heirs of deceased defendant No. 1 and another for amendment of plaint.

Learned advocate for the plaintiff is present.

Accordingly both the above referred petition is taken up for hearing.

Heard learned advocate for the plaintiff. Perused both the petition.

It appears that defendant No. 1 Khagendranath Mondal has died during the pendency of the suit leaving behind three sons, one daughter and wife, 1 son and 2 daughter of his pre-deceased son Raspati Mondal out of whom his 2 sons and 1 son and 2 daughter of is predeceased sons have already on record as defendant No. 2 to 6 and his another son Bikash Mondal, daughter Maharani Mondal and wife of his predeceased son viz. Manu Mondal are required to be added as substituted defendant to the suit.

Since this is a suit for partition involving a recurring cause of action, therefore the period of limitation as provided in Order 22 shall not be applicable here.

Accordingly, the plaintiff's prayer for substitution of legal heirs of deceased defendant no. 1 is considered and allowed at plaintiff's own risk.

The person namely 1) Bikash Mondal 2) Maharani Mondal and 3) Manu Mondal, whose detailed particulars are given in the petition, are hereby impleaded as defendant no. 8 to 10 to the suit.

Consequently the serial number of proforma defendant viz. State of West Bengal is changed as proforma defendant No. 11.

Plaintiff is directed to take necessary steps against the added defendants along with defendant No. 2 to 7 and proforma defendant No. 11.

Now the amendment petition today filed by the plaintiff is taken up for consideration.

Heard learned advocate for the plaintiff. Perused the petition.

It appears that the proposed amendment is just to correct the details or address or serial number of defendant No. 4, 5 & 11 in the cause title, which is formal in nature.

Accordingly considering the formal nature of the proposed amendment as well as the fact that if the same is allowed, the same will not affect the nature and character of the suit, I find no reason for not allowing the petition.

Hence the amendment petition today filed by the plaintiff is considered and allowed.

Plaint be amended accordingly.

Plaintiff is directed to file an amendment plaint accordingly.

Fixed _____ for awaiting S/R and appearance of original defendant No. 2 to 7 & 11 and newly added defendant No. 8 to 10.

D & C by me
Sd/- Gourab Ghosh
A.S.J., Lalbagh

Sd/- Gourab Ghosh
Assistant Sessions Judge,
Lalbagh, Murshidabad, W.B
J.O.Code: WB01100.