

EJECTMENT SUIT NO. 03 of 2016
C.N.R No. WBPS01-00004-2016

IN THE COURT OF 4TH BENCH, PRESIDENCY SMALL CAUSE COURT,
CALCUTTA
PRESENT: SMT. ARCHITA SEN, JUDGE, 4TH BENCH, PRESIDENCY SMALL
CAUSE COURT, CALCUTTA.

ORDER NO- 51
DATED 06-08-2024:

Today is fixed for hearing of the petition dated 07.05.2024 under Order XXII Rule 2 of the C.P.C. The plaintiffs as well as defendant file separate attendance through their respective Ld. Advocates. A petition under Order XXII Rule 2 of the C.P.C has been filed on behalf of the surviving plaintiffs with a prayer for expunging the name of plaintiff no.1, Aruna Shukla from the cause title of the plaint. Copy of the petition is attached.

The said petition is taken up for hearing.

Heard the Ld. Advocates for both the parties. Perused the record. Considered.

Perusal of the case record reveals that the petition contemplates an order expunging the name of plaintiff no.1, since deceased from the cause title of the plaint because the sons of the deceased plaintiff are already on record as plaintiff no.2 and 3. Apart from plaintiff no.2 and 3 there are two daughters of the deceased plaintiff. But they need not be substituted in the record as the deceased plaintiff and her two sons filed the instant suit with the consent of the daughters.

It is settled position of law and some of the co-owners can maintain a suit for eviction, without impleading the rest co-owners, and the consent of the other co-owners is assumed until it is proved that the other co-owners were not agreeable for filing the suit for eviction. In the instant suit, though the daughters of the deceased plaintiff no.1 are also the co-sharers of the suit premises, their consent can be presumed by the Court, until the defendant proves otherwise. So the prayer of the surviving plaintiffs shall be allowed.

For that, it is

ORDERED

That let the name of the deceased plaintiff no.1 Aruna Shukla be stuck out from the cause title of the plaint as dead by making necessary corrections in the cause title of the plaint.

Let the petition dated 07.05.2024 be treated as a part of the plaint.

D.A. to do necessary corrections and insertions.

Note in the suit register and relevant register.

The petition under order XXII Rule-2 CPC dated 07.05.2024 is thus disposed of on contest and without costs.

To 13.09.2024 for evidence for the plaintiffs and payment of cost by the defendant to the plaintiffs vide Order No.37 dated 19.02.2021.

Typed, Corrected and Printed by me.

Judge, Bench-4
PSCC, Calcutta
J.O Code WB01174

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