EJECTMENT SUIT NO. 30 OF 2015
C. N. R. NO. WBPS01- 000166- 2015
Before Dr. A. Bhattacharya, Ld. Judge, 5th Bench.

ORDER NO.107 DATED 18.07.2026

Plaintiff files hazira.

Today is fixed for hearing of the petition filed by the plaintiff no.2 on 17.06.2026 and hearing of the petition under Or.23 R.1 read with Sec.151 of C.P.C.

Ld. Advocate for the plaintiff is present.

No steps taken by the defendant. None moves for the defendant on repeated calls. It is now 11.30 P.M.

The record is taken up for hearing of the petition filed by the plaintiff no.2 on 17.06.2026 by filing which it is stated by the plaintiff no.2 that the Plaintiff no.l namely Gokulananda Das died intestate on 06.06.2024 leaving behind his son Dipankar Das and two daughters namely Parbati Das and Kanika Ghosh and Dipika Das. Said Kanika Ghosh has gifted her total share in the property to her brother, the petitioner by virtue of a Gift Deed. Dipika Das has also gifted her share in the suit property in favour of the petitioner, Dipankar Das by virtue of another Gift Deed. As the right, title and interest of Kanika Ghosh and Dipika Das in the suit property have been devolved upon the petitioner, Dipankar Das, the name of plaintiff no.1 may be expugned from the cause title and the name of Dipankar Das be made as the sole plaintiff in this suit.

Perused the petition and the material on record.

Consisdeing the petition, materials on record and the submission of ld. Advocate for the plaintiff, I am of opinion that there is no impediment to allow the instant petition as per schedule of amended referred to in the petition.

Hence, it is

ORDERED

that the petition dated 17.06.2026 filed by the plaintiff no.2 is allowed.

Let the name of Plaintiff no.l namely Gokulananda Das be deleted from the cause title of the plaint.

D.A. is directed to make necessary changes in the plaint and relevant registers.

Now, the record is taken up for hearing of the petition under Or.23 R.1 read with Sec.151 of C.P.C. by filing which it is stated by the plaintiffs that the instant suit has been filed against the defendnat for recovery of possession. Defendant has filed written statemen. Before institution of the instant suit on 08.11.2014, plaintiffs served a statutory notice under Sec.6(4) of the W. B. P. T. Act to the defendant to quit, vacate and deliver up possession of the tenanted portion to the plaintiffs of one

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room and verandah. There are some techinical defects in the afroesaid notice and also in the plaint which was realized by the plaintiffs during the continuation of the suit making it bad in law and putting a question on the maintainabiltiy of the suit. Plaintiffs do not want to further proceeedd in the matter with leave to file afresh and the suit be dismissed for non prosecution with liberty to file a fresh suit.

Persued the petition and the material on record.

Heard ld. Advocate for the plaintiff.

I have gone through the application for withdrawal of the suit. Plaintiff has prayed for liberty to sue afresh. Plaintiff has not had the opportunity to continue with the suit. So I do not find any reason to refuse the prayer for liberty to sue afresh. If the suit is withdrawn then it will not cause any inconvenience to the defendant.

Hence, it is

ORDERED

that the suit be and same is withdrawn by the plaintiff but without costs.

Plaintiff shall have the liberty to sue afresh.

Accordingly the suit is disposed of.

All pending applications, if any, stands disposed of without any order on merits.

DICTATED AND CORRECTED BY ME,

JUDGE

JUDGE

[5TH BENCH]