Ej Suit 189 of 2023
WBPS01-000411-2023
Before: Smt. Sudipa Banerjee, Ld. Judge, 3rd Bench

Order No: 10
Date: 29-06-2024

Today is fixed for steps by the plaintiff.

Plaintiff files hazira and a petition under Order XXII Rule 4 r/w Section 151 of C.P.C.

Now, the petition under Order XXII Rule 4 r/w Section 151 of C.P.C. filed by the plaintiff dt. 29.06.2024 is taken up for consideration.

Heard Ld. Advocate for the plaintiff. Perused the petition and materials on record.

Considered.

In the instant petition plaintiff has contended that during pendency of the suit the sole defendant Kalyani Sarkar died on 29.04.2024 leaving behind her, three daughters and one son namely 1. Lina Ghosh 2. Nivedita Sarkar 3. Mita Sarkar and 4. Shiv Sadan Sarkar as her legal heirs and representatives. The husband of the deceased defendant had predeceased her. As such plaintiff has prayed for substitution of the legal heirs in place of the deceased defendant in the Cause Title of the plaint.

As the right to sue survives and devolved upon the legal heirs of the deceased defendant, this Court is inclined to allow the instant petition filed by the plaintiff. The petition is supported by an affidavit. Unless the said prayer is allowed, plaintiff shall suffer loss and injury.

Hence, it is

Ordered

that the petition under Order XXII Rule 4 r/w Section 151 of C.P.C. filed by the plaintiff dt. 29.06.2024 is allowed.

Let the name of the deceased defendant Kalyani Sarkar be deleted and substituted by **1. Lina Ghosh 2. Nivedita Sarkar 3. Mita**

contd....

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Sarkar all are daughters and **4. Shiv Sadan Sarkar** - son in the Cause Title of the plaint.

Amend the plaint accordingly. Note in the register. Bench Clerk to do the needful.

Plaintiff is directed to file amended copy of plaint after recording necessary substitution and serve copy of the amended plaint upon the substituted defendants. Plaintiff to put in requisites at once.

Office is directed to issue process, if the requisites are found to be proper and correct.

Fix **20-07-2024** for filing amended plaint by the plaintiff and S/R and A/D.

Sudipa Banerjee
[J.O. Code: WB01148]
Judge, 3rd Bench
Presidency Small Cause Court,
Calcutta