

ORDER NO.74 dt.28/07/22

Heard both sides as regards to the petition on behalf of the plaintiff dt.03/03/22 praying for substitution. It is contended that the properties of Satya Bhusan Kumar since deceased, the original plaintiffs were the executor of the last Will and testament of Satya Bhusan Kumar. Subsequently the executor died and before their death the Will was probated and the beneficiaries Sri Kartick Kumar became the owner of the properties and prayed to substitute him. The last executor died on 26/01/22 and the petition filed within the statutory period along with the copy of probate.

Ld. Advocate appearing on behalf of the defendant raised objection stating inter alia that the property has not yet been ascertained. So the substitution cannot be allowed as stated by the defendant.

Admittedly this is a suit for eviction of the monthly tenant and the plaintiff has to prove his own case and if it is found that the plaintiff has not acquired any title or not acquired any right of landlord in the suit property then obviously the suit will be dismissed. But at this stage when it is found that the property has been allotted in the name of the plaintiff by Will and the said Will has been probated prayer for substitution is hereby allowed.

To 07/09/22 for filing amended copy of plaint. Additional W.S if any, in the meantime and commission report.

D/C by me

Judge, 4th Bench

Judge