

**EJECTMENT SUIT NO.: 355 OF 2008**  
**(CNR No. WBPS01-000635-2008)**  
**(JO CODE No. WB01229)**

Order no. - 95  
Dt. 10.01.2024

Today is fixed for hearing of petition filed by the plaintiffs dated 23.12.2022.

Both sides file hazira.

Copy served to the other side.

Defendant no. 1 files written objection on the ground stated therein.

Heard the Ld. Advocate for the parties.

Considered.

Perused the instant petition, written objection and other materials on record.

On perusal, I find that during the pendency of the instant suit, the defendant no. 2 namely Mohitya Prasad Ghosh died on 27.09.2022 and no legal heir has been left by the defendant no. 2 who may claim being tenant under the provision of West Bengal Premises Tenancy Act, 1997 since the instant tenancy is as joint tenancy for commercial purpose and the legal heirs of deceased defendant has no right over the joint tenancy as such it is required to expunge the name of defendant no. 2 from the cause title of the plaint and the suit may be proceeded against the defendant no. 1 only and the instant petition was filed on 23.12.2022.

Defendant no. 1 has denied in his written objection that the deceased defendant no. 2 has no legal heirs and he stated that the deceased defendant no. 2 has the following legal heirs – Smriti Ghosh (widow of the deceased defendant no. 2), Rajeshwari Ghosh and Trishita Ghosh (both are daughters of deceased defendant no. 2).

After considering the petition dated 23.12.2022 filed by the plaintiff, and after considering the materials on record and also the W.O. filed by the defendant no. 1 against this petition, it appears that joint tenancy was created in the name of defendant no. 1 and 2 and after the death of defendant no. 2, the defendant no. 1 is the sole tenant over the suit premises and the legal heirs of deceased defendant has no right of tenancy over the suit premises and accordingly the name of the deceased defendant no. 2 should be expunged from the cause title of the plaint for the ends of justice and proper adjudication of this case and hence, I have no hesitation to allow the present petition filed by the plaintiffs.

Hence, it is

**ORDERED**

that the petition dated 23.12.2022 filed by the plaintiffs is hereby allowed.

Let the name of the deceased defendant no. 2 is hereby expunged from the cause title of the plaint.

D/A is directed to expunge the name of the defendant no. 2 from the cause title of the plaint.

Plaintiffs are hereby directed to file amended plaint.

Fix 12.03.2024 for filing amended plaint.

**[ Dictated and corrected by me ]**

Sd/-

(Manabendra Nath Ghosh)  
Judge, Bench – II,  
Presidency Small Cause Court,  
Calcutta.

Sd/-

(Manabendra Nath Ghosh)  
Judge, Bench – II,  
Presidency Small Cause Court,  
Calcutta.