

Ej Suit 201 of 2018
WBPS01-000655-2018

Before: Smt. Sudipa Banerjee, Ld. Judge, 3rd Bench

Order no. 29

Date: 11-07-2023

Today is fixed for showing cause by the defendant.

Plaintiff files hazira and a petition under Order 22 Rule 4 r/w Sec 151 of C.P.C. Copy not served but attached.

Defendant takes no step.

Now, the petition under Order 22 Rule 4 r/w Sec 151 of C.P.C. filed by the plaintiff dt. 11.07.2023 is taken up for consideration.

In the instant petition plaintiff has contended that, the defendant no 2 Abdul Rafique died on 02.07.2023 leaving behind him Tabaussum Begum @ Anne – wife and three sons namely- Abdul Shafique, Abdul Fardeem, Abdul Adeem as his legal heirs and representatives. As such plaintiff has prayed for substitution of the legal heirs in place of the deceased defendant no 2 .

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

Considered.

As the right to sue survives and devolved upon the legal heirs of the deceased defendant no 2, 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 22 Rule 4 r/w Sec 151 of C.P.C. filed by the plaintiff dt. 11.07.2023 is allowed.

Let the name of the deceased defendant no 2 Abdul Rafique be substituted by 2(a) Abdul Shafique - son, 2(b) Abdul Fardeem - son , 2(c) Abdul Adeem- son and 2(d) Tabaussum Begum @ Anne – wife in the Cause Title of the plaint.

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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.

No show cause has been filed by the defendant no 1 this day.

Let the suit be proceed exparte against the defendant no 1.

Fix 21-08-2023 for filing amended plaint by the plaintiff and S/R and A/D.

Sudipa Banerjee
(J.O. Code: WB 01148)
Judge,
3rd Bench,
Presidency Small Cause Court,
Calcutta