

EJECTMENT SUIT NO. 474 OF 2011 [4674/2014]
C. N. R. NO. WBPS01-000272-2011
Before Smt. Leena Sharma, Ld. Judge, 5th Bench.

ORDER NO. 46 DATED 18.03.2021

Today is fixed for hearing of the petition dated 22.09.2016.

Both parties have filed their respective haziras.

Petitioner has also filed the original registered Deed of Adoption and one english translation of the Deed of Adoption through firisti. Copy is served upon other side.

Heard ld. Advocates for both sides.

Perused the record.

It is submitted by the ld. Advocate for the petitioner through the petition dated 22.11.2016, that on 09.03.2015, one application under Or.1 R.10(2) read with Sec.151 of C.P.C. for addition of party as defendant no.2 in this suit was filed and the said application was disposed of on contest on 10.08.2016. That in the ordering portion of the said order, there was a mistake by the Court due to which the petition for addition of party in this suit was allowed as defendant in place of defendant no.2. So, he prayed for correction of the said order as such by recalling and/or modifying and correcting the same.

On the other hand, ld. Advocate for the Plaintiff has raised strong objection to the instant prayer of the applicant and submitted that the order dated 10.08.2016 should not be interefered with as it was decided on contest and if it would be interefered with, hearing afresh on petition dated 09.03.2015 should be proceeded as a petition should not be heard twice and two orders should not be passed for one petition.

It appears from the record that on 09.03.2015, an application was filed by the applicant claiming himself to be the adopted son of deceased sole defendant praying for adding himself as a party as defendant no.2 in the suit. It further appears that the said petition was heard on contest on 10.08.2016 by my Predecessor -in-Court. However, the applicant was directed to file registered Adoption Deed executed by the deceased defendant in his favour.

Considering the above discussion and submissions of both sides, Court requires further hearing on the matter.

Petitioner has also filed an application praying for return back of the original Adoption Deed.

Ld. Advocate for the applicant has prayed for return of the original Deed of Adoption on the ground that the same is more than 50 years' old document and that one original Translation of the said Deed has been submitted today by the applicant for perusal.

Heard.

ORDER NO. 46 CONTD.

Considering the submission of Id. Adocate for the applicant and the instant petition, the prayer for return of the original Deed of Adoption, which has not been marked as Exhibited document in this case, is allowed on condition to produce the same as and when called for.

B.C. is directed to hand over the original Deed of Adoption to the applicant after proper identification on above condition.

Fix 15.05.2021 for further hearing.

Dictated and corrected by me,

JUDGE

JUDGE
[5TH BENCH]
J.O. Code No. WB01006.