

EJ. EXECUTION CASE NO. 635 OF 1968 [20/2024]

C. N. R. NO. WBPS01-000070-2023

Before Smt. A. Bhattacharya, Ld. Judge, 5th Bench.

ORDER NO. 09 DATED 22.04.2025

Decreeholder files hazira.

Petitioner/Decreeholder also files two petitions on affidavit, one under Or.22 R.10 read with Sec.141 of C.P.C. along with Annexure praying for bringing the petitioners on record in place and instead of original decreeholder, since deceased, and another application for issuance of writ of possession on the ground stated therein.

Ld. Advocate for the Petitioner/decreeholder is present.

The record is taken up for hearing of the petition filed by the petitioners under Or.22 R.10 read with Sec.141 of C.P.C. by which it is submitted by the ld. Advocate for the petitioners that one Siddheswar Dutta , since deceased, being the absolute owner of the decretal property filed Ejectment Suit No.257 of 1964 as plaintiff against one Prantosh Roy. The said suit has been decreed on contest on 06.12.1965 and such decree had been affirmed by Hon'ble High Court in First Appeal Nop.251 of 1966 on 29.07.1968. The original decreeholder died intestate on 19.04.1994 leaving behind his last Will and Testament on 01.04.1994 and the same was probated in P.L.A. No.410 of 2001. The original judgment debtor namely Prantosh Roy died after passing of the decree on 07.03.1981 leaving behind no son and daughter and his wife has also passed away. So, there is no bar to bring on record the petitioner in place of the deceased decreeholder/applicant of the execution proceeding.

Considering the petition, materials on record and the submission of ld. Advocate for the petitioner, I find that on the death of the original decreeholder, the name of the petitioner should be brought on record in place and instead of the original decreeholder, since deceased and as such, I find no impediment to allow the instant petition.

Hence, it is

ORDERED

that the petition filed under Or.22 R.10 read with Sec.141 of C.P.C. filed by the petitioner is allowed.

Petitioner is directed to file amended copy of Execution petition within 14 days from the date of this order.

Fix 16.05.2025 for filing amended copy of Execution petition and hearing of the other petition filed by the petitioner today.

Dictated and corrected by me,

JUDGE

JUDGE
[5TH BENCH]