

Ejectment Suit:-435 of 2019.

[CNR No WBPS 01 001057 2019]

Before – Sonia Majumdar- Ld. Chief Judge.

Order No:-24.

10-05-2023.

Today is fixed for taking steps by the plaintiff.

Plaintiff files hazira. Defendant no-1 files hazira. Defendant no 2,3 & 4 also files separate hazira. Plaintiff files two separate petitions, one petition u/o-22 Rule 3 of C.P Code and another petition praying for correction of the death report dt 01-03-2023 on the ground stated therein. Copies served.

On call, parties are found present through their respective Ld. Advocates. The matter is taken up for hearing. Heard both sides. Perused the petition and materials on record. Considered.

Ld. Advocate for the defendant no-1 submitted that the petition is beyond time and the suit has already been abated so far plaintiff no-1 is concerned.

On the other hand, Ld. Advocate for the plaintiff submitted if the contention of the defendant is found to be correct, then the plaintiff shall take steps in accordance with law.

Ld. Advocate for the plaintiff further submitted that due to bonafide mistake, in the death report dt 01-03-2023 filed before this Court by the plaintiff, it has been mentioned that plaintiff no-3 had died but actually plaintiff no-1 had died. Therefore, plaintiff has filed a petition praying for correction of the same. Ld. Advocate for the defendant no-1 raised no objection.

Record reveals that on 01-03-2023, death intimation report has been filed on behalf of the plaintiffs reporting therein the death of plaintiff no-3. Today the plaintiff is praying for correction of the same to the effect reporting the death of plaintiff no-1 and not plaintiff no-3.

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(contd.....)

10-05-2023.

The petition is formal in nature and requires to be allowed for removing the anomalies from the face of the record.

Accordingly,

it is

Ordered

that the petition filed by the plaintiffs today praying for correction of the death report dt 01-03-2023 filed by the plaintiffs is hereby considered and allowed.

Plaintiffs are permitted to correct the death report dt 01-03-2023 to the extent that the word “plaintiff no-3” be replaced with “plaintiff no-1”, but other particulars mentioned report in the shall remain as it was.

So far the petition u/o-22 Rule 3 of C.P Code filed this day by the petitioners is concerned, in the instant petition itself, plaintiffs have admitted that plaintiff no-1 died on 28-01-2023 but the petition for substitution has been filed today on 10-05-2023 . More than 90 days have already passed.

Accordingly, fix (**27-07-2023**) for hearing on the point of maintainability of the petition u/o-22 Rule 3 of C.P Code filed by the petitioners , w/o if any in the mean time.

Chief Judge.

J.O .Code:- WB 01128