

EJECTMENT SUIT NO. 443 of 2017
C.N.R No. WBPS01-001128-2017

IN THE COURT OF 4TH BENCH, PRESIDENCY SMALL CAUSE COURT,
CALCUTTA
PRESENT: SMT. ARCHITA SEN, JUDGE, 4TH BENCH, PRESIDENCY SMALL
CAUSE COURT, CALCUTTA.

ORDER NO- 38
DATED 05-06-2024:

Today is fixed for steps by the plaintiffs. The plaintiffs as well as defendant file separate attendance through their respective Ld. Advocates. A petition under Order XXII Rule 2 of the C.P.C has been filed on behalf of the plaintiffs with a prayer for expunging the name of plaintiff no.1, Aruna Shukla from the cause title of the plaint. Copy of the petition is attached.

The said petition is taken up for hearing.

Heard for plaintiffs in full. None moved for the defendant, though attendance has been filed on behalf of her.

Perused the record. Considered.

Perusal of the case record reveals that the petition contemplates an order expunging the name of plaintiff no.1, since deceased from the cause title of the plaint because the sons of the deceased plaintiff are already on record as plaintiff no.2 and 3. Apart from plaintiff no.2 and 3 there are two daughters of the deceased plaintiff. But they need not be substituted in the record as the the deceased plaintiff and her two sons along with the other co-sharers filed the instant suit with the consent of the daughters.

It is settled position of law and some of the co-owners can maintain a suit for eviction, without impleading the rest co-owners, and the consent of the other co-owners is assumed until it is proved that the other co-owners were not agreeable for filing the suit for eviction. In the instant suit, though the daughters of the deceased plaintiff no.1 are also the co-sharers of the suit premises, their consent can be presumed by the Court, until the defendant proves otherwise. So the prayer of the surviving plaintiffs shall be allowed.

For that, it is

ORDERED

That let the name of the deceased plaintiff no.1 Aruna Shukla be stuck out from the cause title of the plaint as dead by making necessary corrections in the cause title of the plaint.

Let the petition dated 05.06.2024 be treated as a part of the plaint.

D.A. to do necessary corrections and insertions.

Note in the suit register and relevant register.

The plaintiffs are directed to file amended cause title of the plaint, as it would stand after the amendment.

The petition under order XXII Rule-2 CPC dated 05.06.2024 is thus disposed of on contest and without costs.

To 16.07.2024 for steps by the plaintiffs in terms with the order and hearing of the petition under section-7(2) of the W.B.P.T Act.

Typed, Corrected and Printed by me.

Judge, Bench-4
PSCC, Calcutta
J.O Code WB01174

Judge, Bench-4
PSCC Calcutta
J.O Code WB01174