

IN THE COURT OF CIVIL JUDGE (JR DIVN) 2ND COURT AT SEALDAH

TITLE SUIT- 501 of 2022

**Order dt.
20.08.2024**

Today is fixed for passing order in respect of petition U/O 1 rule 10(2) of CPC r/w sec 151 of CPC.

Petitioner in his application of U/O 1 rule 10(2) of CPC r/w sec 151 of CPC stated that one Rahiman Bibi let out the land to predecessors of the added opposite parties, namely Ataur Rahman and Wali Ahmed and thereafter the said Zamindar namely Rahiman Bibi, collected the ground rent from the predecessors of the added defendant month by month payable according to the English calendar month. The predecessor of the proposed added defendant constructed the structure on the same land. The Thika Controller of the West Bengal acquired the site land situated at premises no. 12/1A, Noor Ali Lane, Kolkata- 14 and the predecessors of the proposed added defendant after acquisition became the Thika tenant under the Thika controller of the West Bengal. After the death of Ataur Rahman, the predecessors of the proposed added defendant, his legal heirs, namely Habibur Rahman since deceased, paid the ad hoc rent before the regional Thika tenancy office, West Bengal. The predecessor of the defendants was the tenants under the proposed added defendants and after that the defendant no. 1 & 3 were the tenants and the said defendant no. 1 & 3 jointly surrendered their tenancy right to the landlords/owners/proposed defendants on 10.09.2022 and since from the month of the September, 2022 the proposed defendants used the said schedule mentioned room. The proposed added defendant first came to know on 21.12.2022, when one Md. Quaood, filed the civil suit against the petitioners who are tenants/bharatia under the proposed added defendant by suppressing the material facts before this Court regarding the ownership right and relationship between the landlord and tenants in respect of scheduled property.

The plaintiff is licensee under the proposed added defendant and the plaintiff has no ownership, right, title and interest over the said property and the plaintiff is mere trespasser and one civil suit being T.S 470 of 2022 has been pending against the plaintiff.

In the written objection against the instant petition filed by the plaintiff, he submits that the proposed added parties have no local standi to file the said application before this court or they cannot be added as a proposed party in the above suit. The instant suit was for eviction of trespassers in between the plaintiff and the defendants U/S 2(g) of W.B.P.T Act 1997 and the presence of proposed added parties are not necessary parties in the above suit. They are stranger and have no right to be added as a proposed added party in this case.

The plaintiff further contended that it is absolutely false to say that the predecessor of the defendants was the tenant under the proposed added parties and after that the defendant nos. 1 and 3 become tenants under proposed added parties/defendants and it is also false that they

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surrendered their tenancy right on 10/09/2022. All are false story for the purpose of the suit and nothing else. No such incident took place on 10/09/2022 or on any other day. If there is any surrender letter the same is manufactured and nothing else. The plaintiff never suppressed any facts before this Court. It is also not true that plaintiff is a Licensee under the proposed added defendants and he has no right, title and interest in the suit property Plaintiff is the co-owner/co-thika tenant in respect of the premises No. 12/1A, Noor Ali Lane, Kolkata-700014 and the predecessor of the defendants was the tenant under the plaintiff and not under the proposed added parties as falsely alleged. Thika Controller also held that the plaintiff is co-thika tenant in respect of the premises no. 12/1A, Noor Ali Lane, Kolkata-700014 and is not a licensee and the plaintiff has every right, title and interest over the said property. The predecessor of the defendants was the monthly tenant under the plaintiff and the predecessor of defendants was paying rent directly to the plaintiff and also depositing rent before the Rent Controller, Sealdah in the name of plaintiff and as such the proposed added parties are in no way connected in this case and their application under Order 1 Rule 10(2) CPC is liable to be rejected in limni.

On careful perusal of the case record it appears that the suit was filed in the year 2022 and instituted for eviction for trespasser and damages. The plaintiff issued one rent bill to the predecessor namely Lt. Md Bashir, of the defendant on 10.07.2008. It is also pertinent to mention that the defendant filed an application U/S 21 of the WBPT Act, 1997 dt. 02.06.2011 before the Additional Rent Controller at Sealdah supported by affidavit stated that the predecessor namely Lt. Md Bashir, of the defendant was the monthly tenant of the plaintiff namely Md Qauood in respect of schedule property at a monthly rental of Rs. 60/- and after demise of Md Bashir his legal heirs and representative became monthly tenant by operation of law. In respect of this application Additional Rent Controller at Sealdah allowed the prayer of the petitioner/defendant vide order dt. 31.05.2011 in case no. 145 of 2011.

It also reflects that the wife namely Najma Khatoon of Lt. Md Bashir also died in 16.03.2017.

Considering the fact and circumstances there is no provision of surrender of the aforesaid tenancy of defendants to the applicants of petition U/O 1 rule 10(2) of CPC r/w sec 151 of CPC and the prayer of the applicants to be added party in this case U/S 2(g) of WBPT Act,1997 is not entertainable.

Hence it is,

O R D E R E D

that, the petition U/O 1 rule 10(2) of CPC filed by the applicant be and the same is hereby rejected on contest without any order as to cost.

To 30.08.2024 for S/R, A/D, P/R upon rest of the defendant and acceptance of W.S.

D/c by me.

CJ(JD) 2nd Court

Sealdah.