

T.S 31 of 2014

Order No. 46  
Dated 05.05.2015

Today is fixed for hearing of petition U/o 1 rule 10(2) of CPC filed by the proforma defendant-2 & 3(a) praying for adding Sathi Kar and Saswati Basu as defendant-4&5.

The contention of the petitioner is that the legal heirs and survivors of the original title holder Ajit Kr. Ghosh now deceased sought for partition of their ancestral property and Ld. Civil Judge (Sr. div.) in T.S. No.18 of 2014 was pleased to grant the said injunction. The petitioner contends that the said Sathi Kar and Saswati Basu the plaintiff-3&4 in the said suit are necessary party in the instant suit as the proper adjudication of this suit will not be possible in their absence.

In the written objection, plaintiff categorically stated and admitted that Sathi Kar and Saswati Basu are the daughters of Ajit Kr. Ghosh and admitted about the partition suit filed by them. The objector in their petition failed to satisfy this court as to why their presence in this suit are no necessary. I have also gone through the petition of the defendant-1a & 1b objecting the petition U/o 1 rule 10(2) of CPC.

Perused the plaint and it appears from the para.-14 in prayer 'E' from which, it appears that the plaintiff sought relief against the proforma defendant-2&3. The proforma defendant is the person against whom no relief is sought. The plaintiff erred in classifying them as proforma defendant-2&3(a). They are necessary party to this suit and be treated as defendant-2&3 and not proforma defendants. Plaint is required to be amended on this line. On the basis of discussion herein above, the petition U/o 1 rule 10(2) is allowed as the presence of the two daughters of Lt. Ajit Kr. Ghosh namely, Sathi Kar and Saswati Basu are required for proper adjudication of this partition suit.

Accordingly, Sathi Kar and Saswati Basu be added as defendant-4&5. Plaintiffs are directed to file amended plaint incorporating these changes by addition of party and change of status of the defendants in compliance to order 6 rule 18 CPC within the date specified therein.

To 19.05.2015 for P. Hearing of the suit.

D/c by me.

Judge, S.C.C., Sealdah.

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