

T. Suit 25/17(R. 25/17)

CNR-WBSP07-

Order dated 08-03-2022.

Plaintiff is represented in court through his Ld. Advocate. Today is fixed for hearing of the petition dated 13-09-21. Ld. Advocate for the defendant no.1 submitted that in this case defendant no. 1 had filed one application before this court for adding 30 numbers of persons as co-defendants. Since they have purchased the flat in the suit property and they are very much interested and necessary party in a case for Ejectment. He further submits that another application was filed by Nathun Prasad Shaw for adding him as the defendant and his application was also rejected by this court Vide Order dtd. 3-04-18. Against the said order the defendant no.1 and Nathun Prasad Shaw went to the Honourable High Court and Honourable High court took up both the cases C.O no. 3986/19 and C.O no. 1180/18 together and passed judgment on 17-08-21. Ld. Advocate submits that Honourable High court has pleased to set aside the order passed by this court and allowed the petition filed by them for adding those 30 persons as additional defendant in this case. It is therefore, 30 newly added defendants is required to be added in this suit. Ld. Advocate therefore, submits for necessary direction upon the plaintiff for making necessary correction in the plaint adding 30 newly added defendants as per the direction of Honourable High Court and issuance of summons to those 30 newly added defendants.

Ld. Advocate for the plaintiff raises strong objection and submitted that the newly added defendants approached before the Honourable High Court and it is therefore, well known to them and if they do not appear in the court, the case against them may be proceeded exparte. He further submits if at all summon is necessary then it is the defendant at whose instance those 30 newly added defendants are to be included in this case. He did not approach in this case and also did not file any revision before the Honourable High Court and it is therefore, the *onus* is totally upon the defendant no. 1 to bring them in this case and summon them.

In reply Ld. Advocats for defendants no. 1 submits that although he filed application before this court for adding those 30 persons the purchase of the flat in the suit property for adding them as co-defendant but they are not under her control. Moreover, the necessary correction in the plaint is also required to be done for issuing summon and serve copy of plaint to the newly added defendants.

Having regard to the submission from both sides, I am of the view that the

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direction of the Honourable High Court has to be followed in *Toto* by both the parties to this case. Honourable High Court has been pleased to allow the petition for adding 30 persons as newly added defendants as per their prayer. Those persons are very much necessary as they purchase flats and therefore, Honourable High court directed to add them as Co-defendants. It is the case of the plaintiff and therefore, if the plaintiff remains idle even after direction of Hon'ble High Court for adding 30 persons as co-defendants then the case of the plaintiff may suffer for non joinder of necessary parties. Direction has been given by Honourable High Court for adding as Co-defendants and therefore, direction has to be implemented. Without modification of the plaint by adding those 30 persons as co-defendants copy of summon and plaint cannot be sent to them. The fact that defendant has making the application before this court for adding those 30 persons as co-defendants does not imply that they all are within control of the defendants. Those 30 persons have also not appeared before this court with their Ld. Advocate by filing V. Nama save and except Nathun Prasad Shaw. All the points has been extensively discussed and enlightened by the Honourable High Court in this case regarding necessity for adding those 30 persons as co-defendants. It is therefore, plaintiff has to take proper steps in correction of the plaint adding those 30 persons as co-defendants and to submit the copy of revised plaint and to issue summons to all those 30 newly added defendants except Nathun Prasad Shaw who is already in record and therefore, further summons not necessary for him. However, plaintiff has to serve the copy of revised plaint to Nathun Prasad Shaw.

It is therefore, the plaintiff is directed to make necessary correction in the plaint adding those 30 persons as co-defendants as per the **annexure-C** of the application filed by the defendant no. 1 in this case on 03-01-17, copy of which has already been served to the Ld. Advocate for the plaintiff on the same day. Honourable High Court has also directed that the case should be tried expeditiously and it is therefore, both the parties are directed to come ready next day and no unnecessary adjournment shall be allowed in this case.

To 29-03-2022 for filing revised plaint by plaintiff including those 30 newly added defendants in the light of the order of the Honourable High Court. SR and appearance of the added defendants. Requisite at once.

Dictated and corrected by,

Civil Judge (Sr. Division)
Sealdah

(J.O.CODE WB 00917)

Civil Judge (Sr. Division), Sealdah.