

**TS-166/'18**

**Suit**

**14**  
**15.12.18**

Today is fixed for hearing of the amendment application dated 27.09.2018.

The learned lawyers for the plaintiffs and the defendants 2 to 6 are present by filing *haizra*.

The defendants have filed a written objection to such amendment application alongwith another written objection with respect to the amendment of the injunction petition. But since the injunction application has already been disposed of such objection to the injunction application is 'not pressed' by the learned lawyer for the defendants.

The application for amendment is taken up for hearing.

The learned lawyer appearing on behalf of the plaintiffs draws the attention of this court to a plea taken by the defendants at para 14 of the written statement where the defendants have stated that *vide* a deed being no. 1712/'12 they have got their shares from the legal heirs of Palan Chandra Mondal.

The learned lawyer submits that the said deed had been executed by a power of attorney holder under a notarized power of attorney only and could not be acted upon and moreover, in such deed being no. 1712/'12 it has been alleged by such legal heirs of Palan Chandra Mondal that they have acquired their rights in such property in question through another deed being no. 2340/'69. The learned lawyer further submits that he has also procured the certified copy of such deed being no. 2340/'69 and has found that in such deed there is no mentioned of the suit plot being no. 360/600.

Accordingly, through such proposed amendments he has challenged such deed executed by the legal heirs of Palan Chandra Mondal.

The learned lawyer for the contesting defendants have submitted that the proposed amendments if allowed would render the present suit not maintainable and such amendments are also not bonafied in nature.

On perusal of the objection filed by the learned lawyer for the defendants it appears that the entire denial therein is evasive in nature and no specific case has been made out to challenge the plea taken by the plaintiffs in the amendment application.

Considering the entire application and the written objection I am of the considered opinion that such amendments are necessary for proper adjudication of the actual question in controversy between the parties and the same, if allowed, shall not anyway change the nature and character of the present suit.

As such, I am of the view that the amendment application should succeed.

Accordingly, the instant application stands allowed on contest.

To **09.01.2019** for filing of amended plaint, additional WS, if any, in the meantime.

Dealing assistant to note accordingly.

D/C  
Sd/-  
(Civil Judge, sr. divn., Kakdwip)

Sd/-  
(Civil Judge, sr. divn., Kakdwip)

**later**  
**15.12.18**

The application for production of documents and other one containing interrogatories are taken up for hearing.

The learned lawyer appearing on behalf of the other side submits that he has no objection if both of such applications are allowed.

Heard both the sides and perused the case record.

Considered.

**TS-166/'18**

**later (Cont'd)**

**15.12.18**

As suggested by the other side the applications stand disposed of on consent.  
To date for furnishing of reply and production of documents.  
Inform both sides.

**Sd/-**

(Civil Judge, sr. divn., Kakdwip)

**D/C**

**Sd/-**

(Civil Judge, sr. divn., Kakdwip)