

**T.S. 51 of 2019**

**JO Code: 000823**

**Reg. 306 of 2010**

**Order No.79**

**Date: 04.07.23**

Today is fixed for hearing of the application dated 11.05.2023 filed by defendant no. 1(ka), 1 (cha) and 1(chha). It appears that no court fees has been paid in the said application. Hence, the defendant is directed to pay the court fees immediately.

Ld advocate file court fees hence, the said application is taken up for hearing.

Ld advocate on behalf of the defendant no. 1(ka), 1 (cha) and 1(chha) submits that the plaintiff is not taking any steps and that ld advocate Sri Tapan Kumar Guriya has endorsed on the application that he is no more the conducting advocate.

Ld advocate Tapan Kumar Guriya is present in court and submits that he is no more on record.

Hence, the application filed by the defendant no. 1(ka), 1 (cha) and 1(chha) is taken up for hearing.

Ld advocate on behalf of the above named defendants submits that it is the season for cultivation of paddy and monsoon has already commenced but the fields are lying barren because of the order of injunction, and that none of the parties are cultivating the fields.

Heard the ld advocate on behalf of the above named defendants.

Since the main source of income of the villagers in West Bengal is cultivation hence, in my considered view restraining the parties to this suit from cultivating the land will be inhuman and it will cause injustice to all the parties.

Since the order of injunction was passed to maintain status quo in respect of nature and character, and the character of the land is Shali as it appears from the documents hence, such character should be preserved and cultivation should continue. Hence, in my considered view if both parties are permitted to cultivate their possessed land none of the parties will be prejudiced and justice will be done to all.

Hence, the order of injunction dated 24.03.2022 is modified in this respect.

D/C

Sd/- Sushmita Gayen  
ACJM-cum-CJSD, Kakdwip

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ACJM-cum-CJSD, Kakdwip

Later:

The prayer for construction of the privy filed by defendant no. 1(ka), 1 (cha) and 1(chha) is taken up for hearing.

Heard the ld advocate on behalf of the defendant no. 1(ka), 1 (cha) and 1(chha).

Since a privy is not a luxury but an essential unit of a building and a person cannot live with dignity without a privy hence, the prayer to construct the privy is allowed but the defendant shall not be permitted to claim any equity.

To 18.07.2023 for file show cause by the plaintiff as to why the defendants shall not be transposed to the category of plaintiffs.

D/C

Sd/- Sushmita Gayen  
ACJM-cum-CJSD, Kakdwip

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ACJM-cum-CJSD, Kakdwip

