

**T.S. - 28/22 (CIS 48/17)**  
**CNR- WBWM11-000061-2017**

**Order No 75, Dated 23.04.2025**

Today is fixed for passing order in respect of petition dated 01.03.2025 filed the defendant noe 2 and 3.

Both parties file their representative haziras through their Ld. Advocates.

According to the submission of the defendant no 2 and 3, original plaintiff Madan Mohan Pal had instituted the present suit on 03.02.2016 and after his death the substituted plaintiffs are continuing the suit and now the evidence of the plaintiff's side has been started and the earlier appointed Advocate of the defendant died and by taking advantage of this situation the present plaintiffs filed one Misc Case being no 2024/403 before the B.L. &L.R.O. ,Garhbeta- II/ Goaltore and trying to prepare ROR of the suit property in their names by hiding the total matter from this Court and after receiving the notice of the aforesaid Misc Case being no 2024/403 from the said B.L.&L.R.O., Garhbeta - II/ Goaltore, the defendant no 3 has informed the B.L.&L.R.O., Garhbeta - II/ Goaltore in his written objection about the present suit that it is still pending and also filed the Court searching slip there but inspite of this the B.L.&L.R.O., Garhbeta - II/ Goaltore is continuing with the said Misc case and now these defendants are assuming that the plaintiffs are planning to record their names in the ROR of the suit property illegally by ignoring this present pending suit. Moreover , State of West Bengal and B.L.&L.R.O., Garhbeta - II are the defendant no 4 and 5 of this suit and State of West Bengal is contesting the suit as defendant no 4. Further more , the defendant no 3 filed his objection before the D.L. & L.R.O. on 18.02.2025 and that objection has been duly received by that office with its seal. Accordingly these defendant prayed before this Court , that the plaintiff of this suit could not able to succeed to record the ROR of the suit property in their names illegally .

The plaintiffs filed one written objection against the petition and submitted before this Court that the present petition is not at all maintainable and the subject matter of the instant petition is totally out of jurisdiction of this Court as preparation of any ROR of any property is out of jurisdiction of any Civil Court and so the present petition is liable to be rejected and the defendant no 2 and 3 have filed appeal before the D.L.&L.R.O. which is the appellate authority of B.L.&L.R.O., Garhbeta - II then at the same time these defendants can not filed the present petition before this Court with same relief and this Civil Court has no authority in respect of the preparation of any ROR. The plaintiff also contended that the B.L.&L.R.O., Garhbeta - II is contesting as the proforma defendant and there is no such injunction order against the B.L.&L.R.O., Garhbeta - II and so there is no such bar upon the B.L.&L.R.O., Garhbeta - II to proceed with its normal proceedings. The plaintiffs further submitted before this Court that the defendant no 2 and 3 has to prove before this Court that the R.O.R of the suit property has been prepared in the name of the plaintiffs and the plaintiffs are praying for the rejection of the instant petition filed by the defendant no 2 and 3.

Heard & considered .

On careful perusal of the case record this Court found that the plaintiff filed this declaratory suit against the defendants and prayed a decree of declaration of the half share of the suit property in his name along with an permanent injunction against the defendants. The case record also says that trial of the suit has already begun and evidence of P.W. is going on . Now the defendant no 2 and 3 have alleged that the plaintiff is trying to prepare the ROR of the suit property in his name by filing one Misc Case being no 2024/403 before the B.L. &L.R.O. ,Garhbeta- II/ Goaltore and he has hide from B.L. &L.R.O. ,Garhbeta- II/ Goaltore about this present suit. It is a matter of fact and law that the preparation of any ROR and correction of any ROR is beyond the jurisdiction of this Court and there is a clear legal bar upon any Civil Court to intervene into these matters. But the Civil Court has the power to declare any ROR as illegal after going to a trial of a suit. In this present sitation , the matter which is pending before the B.L.&L.R.O., Garhbeta - II between the plaintiff and the defendants is completely distinct and separate and this Court never do any intervention in the proceedings of B.L.&L.R.O.in connection with preparation of any ROR . However , after completion of the trial of this present suit if this Court would found any illegality or discrepancy in any ROR of the suit property , this Court will definitely declare such ROR as illegal, null and void.

In **Krishna Bhattacharya Vs. Sarathi Choudhury , (2016) 2 SCC** , the apex Court held that fraudulent mutation entries during litigation do not affect the decree holder's right.

In **Satya Pal Anand Vs. State of M.P. , (2016) 10 SCC** , the apex Court hold that mutation does not create ownership and can not override a judicial decree.

Hence , this Court is of the opinion that any mutation or the ROR of the suit property during the pendency of a declaratory suit will not affect the enforceability or finality of the decree of this suit. Hence ,it is

**ORDERED**

That the present petition dated 01.03.2025 filed the defendant no 2 and 3 be and the same is here by rejected on contest .

Next date 14.05.2025 for evidence of P.W 4 as last chance i,d. closed .

T/C by me

Civil Judge Jr. Div. Additional  
Court , Garhbeta