

(36)
23.02.2021
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

(Via Video Conference)

CO No. 90 of 2021

**Tanweer
-versus-
HOU YU FANG & ors.**

Mr. Shahjahan Hossain,
Ms. Sanjida Sultana,
... for the petitioner.

Ms. Manideepa (Paul) Roy,
... for the opposite party nos. 1 to 3 & 5.

This revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for eviction and is directed against the order no. 73 dated January 9, 2020 passed by the Learned Judge, 4th Bench, Presidency Small Causes Court, Calcutta in the said suit being Ejectment Suit No. 166 of 2011.

The ejectment suit was filed against one Hou Wang Lin and on his death the following persons were substituted in the suit in his place :-

- 1) HOU MEI HSIU, widow of Late Hou Wang Lin,
- 2) HOU YUAN FANG, son of Late Hou Wang Lin,
- 3) HOU FU FANG @ ALFRED, son of Late Hou Wang Lin,
- 4) HOU WAN FANG, son of Late Hou Wang Lin,
- 5) HOU YU FANG, son of Late Hou Wang Lin,

6) HOU FU FANG @ CHRISTOPHER, son of Late Hou Wang Lin.

The plaintiffs on September 10, 2018 filed an application under Order I Rule 10(2) of the Code of Civil Procedure for addition of one “ Lin Mei Hsiu” as defendant no. 1 after striking out the name of the Hou Mei Hsiu on the ground that the said “ Lin Mei Hsiu” is the actual widow of the deceased original tenant.

The learned Trial Judge considering the materials on record, particularly on the basis of the certificate of marriage between the deceased tenant and the said Hou Mei Hsiu has held that the said Hou Mei Hsiu is the widow of the deceased tenant.

The learned Trial Judge determined the question as to who is the legal representative of the deceased tenant as required under Order XXII Rule 5 of the Code. This Court does not find any illegality in the said determination.

Ms. Manideepa (Paul) Roy, learned counsel appearing on behalf of the opposite party nos. 1 to 3 and 5, specifically submits that the defendant no. 1 is the widow of the deceased tenant and she is in possession of the suit property. That being the stand of the defendant, the addition of the said “ Lin Mei Hsiu” is not necessary.

The order impugned, therefore, does not call for any interference.

CO 90 of 2021 is therefore dismissed, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Biswajit Basu, J.)