

24.02.2022
(S/L-44)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 1024 of 2019
With
I.A. No. CAN 1 of 2020 (not in list)
I.A. No. CAN 2 of 2021
I.A. No. CAN 3 of 2021

Mayajjem Hossain Gharami & Anr.
-Vs-
Injamul Haque Sardar & Anr.

Mr. Haradhan Banerjee,
Mr. Amitava Pain,
.... For the Petitioners.

Ms. Younush Mondal,
... For the Opposite Parties.

Re: **I.A. No. CAN 3 of 2021**

This is an application for substitution of heirs and legal representatives of the deceased petitioner no. 1 who died intestate on February 18, 2021.

The application is within time and is in form, therefore, allowed.

Let the heirs and legal representatives of the deceased petitioner, whose particulars have been set out under paragraph no. 2 of the application be substituted in place and instead of the deceased petitioner no. 1.

The department is directed to carry out the necessary correction in the cause-title of the revisional application.

I.A. No. CAN 3 of 2021 is thus disposed of without any order as to costs.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendants in a suit for partition and is directed against the order dated June 30, 2018 passed by the 7th Court of learned Civil Judge (Senior Division) at Alipore in the said suit being Title Suit No. 117 of 2015.

The learned Trial Judge by the order impugned has allowed the application filed by the plaintiffs/opposite parties under Order XXXIX Rule 7 of the Code of Civil Procedure for holding local inspection of the suit property on the points mentioned in the said application.

The grievance of the petitioners is that the said application was allowed on the same date of its filing without affording any opportunity to the petitioners to file objection to the said application and/or to contest the same.

The grievance of the petitioner is justified, as it appears from the records.

The order impugned therefore, is set aside.

C.O. 1024 of 2019 is disposed of by requesting the learned Trial Judge to reconsider the said application in accordance with law after giving the petitioners an opportunity to contest, within a period of two available effective working

months of the said Court from the date of communication of this order and in doing so shall not grant any unnecessary adjournment to either of the parties.

The applications being I.A. No. CAN 1 of 2020 and I.A. No. CAN 2 of 2021 have been filed by the petitioners and the opposite parties respectively for expeditious disposal of the revisional application.

I.A. No. CAN 1 of 2020 is treated to be in day's List as it is not appearing in the list.

In view of the disposal of the revisional application, no further orders need be passed on the aforesaid applications and are accordingly disposed of without any order as to costs.

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

(Biswajit Basu, J.)