

19.04.2022
Court No. 18
Item no.21
CP

C.O. 3957 of 2019
with
CAN 4 of 2022
with
CAN 5 of 2022

Mrityunjoy Dhara & ors.
Vs.
Shri Kashinath Dhara & ors.

Mr. Siva Prosad Ghosh
...for the petitioners.

Mr. Amrita Lal Dhar
....for the opposite party nos. 8, 9, 11 to 14.

Mr. Anirban Das
Mr. S. Sanyal
...for the Opposite party no. 7.

CAN 4 of 2022

This is an application for expunging the name of deceased opposite party no. 2. The said opposite party died intestate during the pendency of the revisional application on February 19, 2019, leaving behind her surviving heirs and legal representatives who are already on record.

The application is in form, as such, allowed.

Let the name of the deceased opposite party no. 2 be expunged from the cause title of the revisional application.

Department is directed to carry out necessary amendment in the said cause title.

CAN 4 of 2022 is, thus, disposed of without any order as to costs.

CAN 5 of 2022

This is an application for expunging the name of deceased opposite party no. 10. The said opposite party died intestate during the pendency of the revisional application on December 19, 2021, leaving behind her surviving heirs and legal representatives who are already on record.

The application is in form, as such, allowed.

Let the name of the deceased opposite party no. 10 be expunged from the cause title of the revisional application.

Department is directed to carry out necessary amendment in the said cause title.

CAN 5 of 2022 is, thus, disposed of without any order as to costs.

C.O. 3957 of 2019

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiffs in a suit for partition and is directed against Order No. 35 dated November 14, 2019, passed by the learned Civil Judge (Senior Division), Third Court, Barasat, District – 24-Parganas (North) in Title Suit No. 666 of 2016.

The plaintiffs failed to incorporate all the ejmali properties of the parties in the suit, as such prayed for amendment of the plaint. The said prayer of the plaintiffs was allowed, pursuant to which the plaintiff

on January 17, 2018 filed the amended plaint but due to typographical mistake some of the joint properties were left out again although by the order allowing amendment of the plaint, those properties were allowed to be incorporated in the schedule thereof.

The learned Trial Judge by the order impugned has refused to accept the said amended plaint on the ground that the said defect occurred due to negligence of the plaintiffs.

The amendment of the plaint since has been allowed and in view of the nature of the suit the plaintiffs should have been given an opportunity to rectify the said defect, therefore, the plaintiff is permitted to file an amended plaint within two weeks from date.

C.O. 3957 of 2019 is disposed of with the above terms without any order as to costs.

The learned Trial Judge is requested to expedite the disposal of the suit and the pending applications thereto.

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.)