

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

**S.A.T. 133 of 2022
With
CAN 1 of 2022**

**Mina Laha
Vs.
Ganesh Santra and Ors.**

**Mr. Jayanta Das
Ms. S. Ghosh**

... For the Appellant.

Re: CAN 1 of 2022

This is an intended second appeal. The appellant was the plaintiff in the learned trial court.

She claimed title and possession as against the respondents/defendants over a parcel of land.

The learned trial court and the learned first appellate court below have held that the suit as framed was not maintainable for non-joinder of necessary parties. The court was of the view that the said parcel of land comprised a greater plot of land co-owned by raiyats, and undivided and which was not partitioned under Section 14(2) of the West Bengal Land Reforms Act, 1955. Hence it was undivided property and all the co-sharers were necessary parties.

S.D.

For not having impleaded them, the suit was held to be bad for non-joinder of necessary parties and dismissed.

We are of the view that if the second appeal is admitted and the entire matter remanded to the learned trial court with suitable directions, the ends of justice would be sub served.

We set aside the judgements and decrees of the learned trial judge and of the learned first appellate court and remand the entire suit to the learned trial judge.

Within four weeks from date, the appellant/plaintiff shall make an application before that court to implead the other co-sharers as parties and suitably amend the plaint. The said application shall be considered and allowed by the learned trial judge preferably within eight weeks of filing thereof. Thereafter, the court shall pass suitable directions for getting the suit ready for hearing so that it may be decreed not later than 31st December, 2024.

We make it clear that if no such application is made within the above stipulated time, the suit shall be deemed to have been dismissed on the expiry of time to make the application for addition of party.

The appeal (SAT 133 of 2022) and the connected application (CAN 1 of 2022) are disposed of by this order.

(I.P. Mukerji, J.)

(Biswaroop Chowdhury, J.)

