

Item No.40 & 41
19.03.2024
Court. No. 19
GB

C.O. 2834 of 2023
With
CAN 1 of 2023

Merina Begum
Vs.
Janardan Adhikary

With

C.O.348 of 2023

Janardan Adhikary
Vs.
Merina Begum

*Mr. Rabindranath Mahato,
Mr. Aritra Shankar Ray*

*...for the Petitioner
(In C.O. 2834 of 2023).*

*Mr. Jayanta Samanta,
Mr. Dip Joyti Chakraborty,
Ms. Karunamoyee Samanta,
Mr. Rajdeep Adhikari*

*...for the Opposite Party
(In C.O.2834 of 2023).*

In Re: CAN 1 of 2023 in CO 2834 of 2023

This is an application for substitution of the heirs and legal representatives of the sole opposite party, Janardan Adhikary who died intestate on July 6, 2023.

CAN 1 of 2023 is allowed.

Let the heirs and legal representatives as appearing in paragraph 2 of the said application be incorporated in the revisional application being C.O.2834 of 2023 as opposite party nos.1(a) to 1(c), upon the death of Janardan Adhikari.

CO 348 of 2023

In C.O.2834 of 2023 there was an order of this Court on September 22, 2023 that the said revisional application will be heard analogously with C.O. 348 of 2023. The order of substitution passed in C.O.2834 of 2023, is also made applicable to C.O.348 of 2023. Accordingly, upon the death of Janardan Adhikari, his widow and sons be substituted as the petitioner nos. 1(a) to 1(c).

Both the parties are directed to correct the cause title in the respective revisional applications.

C.O.348 of 2023 is an application filed challenging rejection of an application under Order 11 Rule 2 of the Code of Civil Procedure. By the application, the defendant had laid down a list of interrogatories filed in connection with the suit. The plaintiff contested the said application, inter alia, stating that the trial had commenced and the P.W.1 had already filed most of the documents on behalf of the plaintiff, whereas, the defendant with mala fide intention was trying to drag the suit. It has been further stated by the plaintiff that the interrogatories were not within the purview of the provisions of Order 11 Rule 2 of the Code. The learned court held that the questions were on matters within the knowledge of a particular party and such questions could be put in the cross-examination.

This Court does not find any reason to interfere with the order impugned. Having perused the schedule of interrogatories, it appears that the learned trial judge was

correct in holding that the questions could always be put to the plaintiff's witnesses in the cross-examination.

Accordingly, C.O. 348 of 2023 is disposed of.

In Re: C.O.2834 of 2023

This is an application for expeditious disposal of the suit.

Both parties are represented.

It appears from the records that an interlocutory application is pending. The learned court is directed to dispose of the said application within a period of one month from the next date fixed and upon disposal of the said application, the suit shall be disposed of expeditiously, preferably within a period of eight months.

This Court has not gone into the merits of the suit. The learned court shall proceed independently and in accordance with law.

Accordingly, the revisional application is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)