

30.06.2025
Item No.332

Court No.29
Sg/SM

**C.O. 3867 of 2024
With
CAN 1 of 2025**

**Pranab Kumar Jana
Vs.
Parthasarathi Guria & Anr.**

Mr. Soumen Kr. Dutta
Ms. Juthika Barman
....for the petitioner.

Mr. Sounak Bhattacharyya
Mr. Manish Kumar Das
....for the respondent nos. 1.

The Impugned Order No. 7 dated 23rd August, 2024 passed by the learned Civil Judge (Junior Division), First Additional Court, Contai, Purba Medinipur is subject matter of challenge in the instant application. By the order impugned, learned Court below allowed the plaintiff's application filed under Order 1 Rule 10 CPC and thereby added defendant nos. 3 and 4 in a suit for declaration about the naming of a High School and restraining defendant from taking control over the said school.

Being aggrieved by the said order, learned counsel appearing on behalf of the petitioner/defendant no.1 submits that the impugned order is bad in law, since the Court

below failed to appreciate that West Bengal Board of Secondary Education has been conferred with the power under the provisions of the West Bengal Secondary Education, 1963 to change the name of the School and thereby Member Secretary and the Headmaster whom the plaintiff sought to be added have got no role to change the name of the School and as such, the order impugned is liable to be set aside. He further submits that the Court below had also erred in law in entertaining the application under Order 1 Rule 10 of the CPC. Since the Board is the main authority to change the name of School thereby addition of the member Secretary as well as the Headmaster is irrelevant. He further submits that the managing committee has not been made party in terms of notification dated 30th September, 2011. He further submits that the plaintiff/petitioner has bypassed the mandatory statutory provision and thereby under the court's order had impleaded the defendant nos.3 and 4 who are not at all necessary party for the adjudication of the present suit. He further referred the notification issued by the West Bengal Board of Secondary Education being No. S-440 dated 16th June, 1998 in support of his contention that there are specific guidelines regarding condition and procedure for changing

the name of a recognized secondary school and in the present case neither the plaintiff nor the court below had complied the said provision while allowing the plaintiff's prayer for addition of defendant nos. 2 and 3 in this suit.

Mr. Bhattacharyya, learned counsel appearing on behalf of the opposite parties submits that the Member Secretary of the School and the Headmaster of the School are the necessary party, against whom the plaintiff has made his claim and it is plaintiff's desire whom he will be added as a party and against whom he wants to fight and the defendant herein cannot have any right to raise objection on this point. Accordingly, he prayed for dismissal of the suit.

I have considered the submissions made by both the parties. It is well settled principle of law that the plaintiff is the dominus litis of the suit and as such, the plaintiff is the master of the suit and he cannot be compelled to fight against whom he does not claim any relief.

In such circumstances and in view of such settled proposition of law, I do not find any merit in the present application and as such, CO 3867 of 2024 along with its connected application stands dismissed.

However, this dismissal order will not preclude the plaintiff to make prayer for amendment of plaint, including cause title of the plaint, if he so desires and the defendant to file additional written statement if any.

After exhausting such process, the Court below will frame following issues as preliminary issues:-

- 1) Is the suit maintainable is the present from and prayer;
- 2) Whether the suit is bad for non-joinder of necessary party.

Before proceeding further with the suit the Court below will dispose of these two preliminary issues in accordance with law without being influenced by any observation made herein to ascertain whether effective decree can be passed in the presence of such parties.

Urgent Photostat certified copy of this, if applied for, be supplied to the parties upon compliance of all formalities.

(Dr. Ajoy Kumar Mukherjee, J.)