

Mahamaya Dassi Vs. Om Durga Developers (Private) Ltd. and anr.

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SooperKanoon Citation : sooperkanoon.com/1060253

Court : Kolkata

Decided On : Apr-25-2013

Judge : I. P. Mukerji

Appellant : Mahamaya Dassi

Respondent : Om Durga Developers (Private) Ltd. and anr.

Judgement :

GA No.668 of 2013 CS No.255 of 2004 with GA No.1499 of 2012 IN THE HIGH COURT AT CALCUTTA ORDINARY ORIGINAL CIVIL JURISDICTION Mahamaya Dassi Versus Om Durga Developers (Private) LTD.& Anr.

Before: The Hon'ble Justice I.P.MUKERJ.Date:

25. h April 2013 Appearance: Mr.Debdatta Sen, Advocate for the petitioner Mr.Mohit Gupta, Advocate for the respondent The Court: There is no point in keeping this application for amendment pending.

In another proceeding (GA No.1815 of 2010 with TS No.9 of 1963 Mahamaya Dassi & ORS.versus Tara Sundari Auddy) Sanjib Banerjee, J.

by his order dated 4th August 2010 directed the following heirs of Mahamaya Dassi to be appointed as Joint Administrat ORS.Mr.Anup Law (son of Ajit Kumar Law).Sarat Kumar Law, Bansari Law (widow of Ranjit Kumar Law).Sanat Kumar Law, Biswanath Kumar Law and Sankar Kumar Law.

In that proceeding the Joint Administrators were appointed on their claim as heirs of late Mahamaya Dassi.

Now, among all these heirs, Sankar Kumar Law died on 10th August 2012.

The present suit is a suit for eviction which had been instituted by Mahamaya Law.

By this application the applicants want the above heirs of Smt.

Mahamaya Dassi except Sankar Kumar Law and the heirs of Sankar Law to be substituted as plaintiffs after recording the death of Mahamaya Dassi.

It may be stated that another application (GA No.1499 of 2012) is pending before this Court for substitution of the heirs of Mahamaya Dassi after recording her death.

This application was taken out when Sankar Kumar Law was alive.

There is no dispute regarding heirs of the plaintiff.

At any rate, a tenant or the lessee or a former tenant or lessee is estopped from denying the title of the lessor under whom he enjoys or enjoyed the property, which include the heirs of the lessor.

But Mr.Gupta points out that no steps have been taken by the plaintiff, in the suit from 2004.

Even the writ of summons has not been served.

Any right of the defendant arising therefrom is expressly kept open.

GA No.1499 of 2012 is treated as on the days list.

The present application along with GA No.1499 of 2012 are allowed by directing the amendments to be carried out in terms of prayer (a) of GA No.668 of 2013 and prayer (a) of GA No.1499 of 2012.

The department is directed to carry out the amendments within a period of three weeks from date.

As affidavits were not invited in the present application, the allegations contained in the petition are deemed not to be admitted.

Department and all parties are to act on a signed photocopy of this order on the usual undertakings.

(I.P.MUKERJI, J.) R.

Bose AR(CR)

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