

27.09.2021
(S/L-04)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 950 of 2020
Sri Ananda Kumar Poddar
-Vs-
Sri Nil Ratan Bakshi

Mr. Arup Krishna Das,
.... For the Petitioner
Mr. D.N. Chatterjee
.... For the Opposite Party

The plaintiff in a suit for injunction being Title Suit no. 131 of 2013 is the petitioner of the present application under Article 227 of the Constitution of India which is directed against the order No. 53 dated January 07, 2020 passed by the 1st Court of learned Civil Judge (Junior Division) at Ranaghat, District-Nadia in the said suit.

The petitioner assailed the order whereby the application filed by the petitioner seeking amendment of plaint was dismissed in revision being C.O. 3129 of 2017.

The said revisional application was allowed by the judgment and order dated February 28, 2019 by permitting the plaintiff to file the amended plaint within two weeks from the date of the said order.

The learned Trial Judge by the order impugned has refused to accept the amended plaint filed beyond the said period of two weeks.

Mr. Arup Krishna Das, learned advocate appearing on behalf of the petitioner submits that the delay in filing the amended plaint was caused as the order dated February 21, 2019 was subsequently corrected by the order dated February 28, 2019.

He prays acceptance of the said amended plaint upon condonation of delay.

Mr. D.N. Chatterjee, learned advocate appearing on behalf of the opposite party submits that his client although is not seriously objecting to the prayer of the petitioner but he may be compensated by costs.

Having heard the learned advocate for the parties and on perusal of the records, it appears that there were some typographical mistakes in the order dated February 21, 2019 in recording the names of the learned advocates for the parties, the said mistakes were subsequently corrected by the order dated February 28, 2019. Therefore, the explanation offered by the petitioner for his failure to file the said amended plaint within the time fixed by the order dated February 21, 2019 is more or less satisfactory, as such, the said delay is condoned.

The order impugned is set aside. The amended plaint be accepted but subject to payment of costs of Rs.3,000/- to be paid by the petitioner to the defendant within a week from date.

C.O. 950 of 2020 is allowed with the above terms.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)