

13,DL,Ct.18.
16.04.2021
AJ.

C.O. 822 of 2021

Smt. Mongola Dutta & Anr.
-Vs-
Smt. Maya Rani Dutta & Ors.

Mr. Soumava Mukherjee.
... for the petitioners.

The revisional application is at the instance of the plaintiffs in a suit for declaration and eviction.

The suit was dismissed and the counterclaim thereto was decreed.

The petitioners preferred an appeal against the decree dismissing the suit being Title Appeal No. 33 of 2016 pending before the 1st Court of the learned Additional District Judge at Hooghly.

The appeal Court below by the order impugned being order dated March 04, 2020 has dismissed an application filed by the petitioner seeking amendment of the plaint on the ground that it is not believable that the factual aspects which the appellants desire to introduce by way of amendment were not within their knowledge at the time of commencement of the trial.

The plaintiffs by the proposed amendment are seeking to incorporate the facts relating to their settlement in India after partition, therefore,

the said facts must have been within their knowledge from the very beginning of the suit.

The appeal Court below, therefore, has not committed any error in rejecting the said application for amendment of plaint as the same is hit by the restriction imposed by the proviso appended to Order VI Rule 17 of the Code of Civil Procedure in allowing an application for amendment after commencement of the trial of the suit.

This Court does not find any illegality and/infirmity in the order impugned warranting interference.

C.O. 822 of 2021 is dismissed without any order as to costs.

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.)