

09.12.2021
Ct. 21
D/L 94
ab

C.O. 1064 of 2021
(Via Video Conference)

Ashok Dey
-Vs-
Amit Todi & Ors.

Mr. Debanik Banerjee,
Mr. Steven Sourodip Biswas,

... for the petitioner

Heard the learned advocate for the petitioner.

The petitioner/plaintiff has preferred the present revisional application challenging the order dated 18.03.2021, by which the learned Court below was pleased to allow the amendment application filed by the defendants on 09.02.2021.

The learned Advocate for the petitioner draws the attention of this Court to the order sheet dated 09.02.2021 and which reads as follows :

*“Today is fixed for hearing of petition & SR. Parties file certain documents. Kept with the record. No S/R returned.
Heard ld. Adv. for both the parties in full.
Fix 15.02.2021 for order.”*

Therefore, from such order, it appears that the defendants never filed any application for amendment of the written statement on 09.02.2021. Prima facie, it is seen that no opportunity was given to the

plaintiff/petitioner to file written objection against such amendment petition filed by the defendants. Without giving opportunity to the plaintiff/petitioner to file written objection against the amendment petition filed by the defendants and without also serving of the same to the plaintiff/petitioner, the Court appears to have taken up the amendment petition and allowed the same.

Prima facie, it is seen that the Court below has acted beyond jurisdiction. The order impugned suffers from material irregularity and/or illegality. Therefore, the order impugned is liable to be set aside.

The order impugned dated 09.02.2021 is hereby set aside. The revisional application **being C.O. 1064 of 2021** is allowed.

There shall be no order as to costs.

Parties are to act on the server copy of this order duly downloaded from the official website of this Court.

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

(**Kesang Doma Bhutia, J.**)