

(05)
23.11.2021
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

(Via Video Conference)

CO No. 1381 of 2021
Sri Sri Laxmi Janardhan Jew
represented by its Sebait Sri Lakshman Chandra Satpati
-versus-
Sri Dipak Panda & ors.

Mr. Gopal Chandra Ghosh,
Mr. S. Bandyopadhyay,
... for the petitioner.

Mr. Bibekananda Tripathy, ... for the opposite parties.

Affidavit of service filed on behalf of the petitioner be kept
with the record.

The instant revisional application under Article 227 of the
Constitution of India is at the instance of the defendant in a suit for
declaration of title, injunction and is directed against the order dated
April 20, 2021 passed by the learned Civil Judge (Junior Division),
Purba Medinipur at Haldia in the said suit being Title Suit No. 245
of 2014.

The plaint was allowed to be amended vide the order no. 16
dated September 4, 2017. The plaintiffs failed to file the amended
plaint within the time stipulated in the said order and also within the
extended time.

The plaintiffs, for their such default, were directed to show-
cause as to why the said suit would not be dismissed. The learned
Trial Judge by the order impugned has accepted the reply to the said
show-cause and took the amended plaint on record subject to
payment of costs of Rs. 500/- .

Mr. Gopal Chandra Ghosh, learned senior counsel
appearing on behalf of the petitioner, submits that the said reply
does not disclose any plausible ground to accept the amended plaint
after expiry of almost two years from the date of allowing the said

prayer of amendment of plaint. He further submits that the learned Trial Judge without affording opportunity to the defendant to file additional written statement has accepted the amended plaint.

Learned counsel for the plaintiffs/opposite parties submits that delay in filing the amended plaint was not intentional.

Heard the learned counsel for the parties, perused the materials-on-record.

The laches of the plaintiffs in filing the amended plaint are apparent but the learned Trial Judge in exercise of his discretion has accepted the said amended plaint for the ends of justice, this Court is not inclined to interfere with the exercise of such discretion. However, for the laches of the plaintiffs, the defendant has suffered which must be compensated by appropriate costs. That apart, the defendant is entitled to file additional written statement against the amended plaint.

The amended plaint be accepted subject to the payment of costs of Rs. 5,000/- by the plaintiffs to the defendant within a week from date.

The defendant is permitted to file additional written statement within two weeks from date or from the date of receipt of the copy of the amended plaint, whichever is later.

The order impugned is modified to the extent indicated above. C.O. 1381 of 2021 is disposed of with the above terms without any order as to costs.

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

(Biswajit Basu, J.)