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SB

20.09.2021
Ct. No. 7

C.O. 1383 of 2021

Amir Ali Piyada & Ors.

Vs.

Arshed ALI Midde (Deceased) Selima Begam Midde & Ors.

Mahammad Mahmud
S. Molla

... for the petitioners

The plaintiff has filed an instant application challenging the order no. 129 dated March 20, 2021 passed by the learned Civil Judge, Junior Division, 4th Court, at Serampore, District – Hooghly.

By the order impugned the application for amendment of plaint was rejected.

The learned counsel appearing on behalf of the petitioners submits that the petitioners filed the application for amendment of claim for the purpose of correcting the typographical errors in the plaint.

I have heard the learned counsel for the petitioners and have perused the materials on record. It appears from the plaint that the petitioners claimed that their predecessor-in-interest were the 'Mutawallis' in respect of 'A' Schedule property. By virtue of amendment the petitioners have sought to alter the status of their predecessors in respect of the suit property from 'Mutawallis' to that "Khadem".

In the plaint the plaintiffs have claimed themselves

to be owners of the suit property and by filing the amendment application sought to change their status from owner to that of “Khadem”

The learned Trial Judge after taking into consideration the meaning of the urdhu word “Khadem” and ‘Mutawalli’ held that the plaintiff sought to withdraw the admissions made in the original plaint by way of amendment. It is well settled that an admission in the pleadings cannot be allowed to be withdrawn. In the instant case, it cannot be said that by way of an amendment the petitioners sought to explain the admissions already made in the plaint but it was the case of withdrawal of admission as rightly held by the learned Trial Judge.

The impugned order does not suffer from any infirmity.

C.O. 1383 of 2021 is dismissed without any order as to costs.

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

(Hiranmay Bhattacharyya, J.)