

(66)
25.11.2021
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

(Via Video Conference)

CO No. 1565 of 2021

Asit Kumar Paul @ Asit Paul

-versus-

Amit Paul

Mr. Jayanta Samanta,

Ms. Paromita Malakar (Dutta),

... for the petitioner.

Mr. Partha Pratim Roy,

... for the opposite party.

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

The petitioner is the plaintiff of the connected suit for declaration and injunction being Title Suit No. 975 of 2016 pending before the 7th Court of learned Civil Judge (Junior Division), Howrah.

The petitioner is challenging the order dated December 24, 2018 passed in the said suit.

The explanation offered in the present revisional application under Article 227 of the Constitution of India justifying the delay in filing it is not very convincing but for the ends of justice, the said explanation is accepted.

The prayer of the petitioner for amendment of plaint was allowed but due to the default of the plaintiff to file the amended plaint within the time fixed, the order allowing amendment of plaint has been recalled by the order impugned.

It appears from the record that the on the date fixed for filing of the amended plaint, the plaintiff sought for

adjournment on the ground of illness of his learned advocate, the learned Trial Judge refused to grant such adjournment and recalled the order allowing the amendment of the plaint.

The plaintiff is obliged to file the amended plaint within the time fixed by the order allowing such amendment but recalling of the said order for the first default of the plaintiff in complying it, is too harsh.

Therefore, for the ends of justice, the order impugned is set aside.

The plaintiff is permitted to file the amended plaint within two weeks from date subject to payment of costs of Rs. 2,000/- to the defendant within a week from date.

C.O. 1565 of 2021 is allowed 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.)