

17.11.2021
S/L No.7
KS

(Via Video Conference)

C.O. 2291 of 2019

Elius Sardar

-Vs.-

Atiar Gharami

Mr. Sandip Das

.....For the Petitioner

Mr. Tanmoy Chowdhury

Ms. Ritoprita Ghosh

.....For the O.P.

The petitioner as the plaintiff in Title Suit No.221/2015 pending in the Court of the learned Civil Judge (Junior Division), 1st Court, Baruipur has assailed the order No.32 dated 20.03.2019 whereby the petitioner sought for amendment to delete the substantial prayer for decree of declaration of his right, title and interest which was rejected, however, the averments made in respect of the item nos.2 and 5 for amendment were allowed as the plaintiff/petitioner simply wants a decree for permanent injunction restraining the opposite parties/defendants from disturbing the peaceful possession in the matter of cultivation of the suit property as 'Bargadar'. In substance the petitioner claims to be a 'Bargadar' in respect of the suit land as his father was the 'Bargadar' under Sarat Chandra Chakraborty. In rebuttal learned advocate appearing for the opposite party submits that the suit property originally

belonged to Sarat Chandra Chakraborty who had sold the land to Ayjoddin Sardar, the father of the present petitioner/plaintiff and his father sold the suit land to Dulal Halder and Dulal Halder in turn sold the same to Ziad Ali. Thereafter, the defendant/opposite party herein purchased the suit property from Ziad Ali. This is how the opposite party/defendant claims his right, title, interest and possession in respect of the suit land whereas the plaintiff/petitioner's case is that his father Ayjoddin Sardar was the recorded 'Bargadar' in respect of the suit land and since, his father as 'Bargadar' the plaintiff/petitioner is in possession by way of cultivation of the land in the suit recorded as 'Bargadar'. So, a dispute crops up for decision being the moot issue as to whether Ayjoddin Sardar was the owner of the property by way of purchase of the suit land from Sarat Chandra Chakraborty or he was a recorded 'Bargadar' and whether Ayjoddin Sardar at all had sold the land recorded in his name as 'Bargadar' to Dulal Halder. So the status of the plaintiff/petitioner is in question which requires to be adjudicated as a moot issue in the suit.

Therefore, the learned Trial Court has rightly rejected the prayer for amendment of the plaint for deletion of the prayer for declaration of title.

In my view, the averments made in the plaint, the status of the petitioner as 'Bargadar' is allegedly clouded by the defendant/opposite party. However, the observation in the order

made to the extent for deletion of the declaration would change the nature and character of the suit appears to be preposterous. In my view, substantially the learned Trial Court has rightly rejected the application.

Since, I do not find ground to interfere with the order impugned, the revisional application being, C.O. 2291 of 2019 is dismissed and disposed of.

Learned Trial Court is directed to expedite the suit as expeditiously as possible.

All parties are to act on the server copy downloaded from the Official Website.

(Shivakant Prasad, J.)