

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Ajoy Kumar Mukherjee.

C.O. 3197 of 2018

**SITARAM SAHU
VS.
USHA SAHU & ANR.**

For the petitioner: Mr. Ziaul Islam

For the opposite party: None.

Heard on: 17.12.2021

Judgement on: 23.12.2021

Ajoy Kumar Mukherjee, J.

1. Being aggrieved and dissatisfied with the order no. 32 dated 15.06.2018 present revisional application has been preferred. By the said impugned order no. 32 dated 15.06.2018 passed in Misc. Case No. 199 of 2015, the Learned Trial Court was pleased to allow the petition for amendment under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure in respect of the petition for revocation of grant of probate.

2. Learned counsel for the petitioner submits that by way of amendment of the application for revocation of grant of probate the petitioner has sought to introduce some dates, which if allowed will alter the cause of action as well as nature and character of the revocation application, which is not permissible in the eye of law and in this context he referred case law reported in **1974 SCC (2) 393 (Ganga Bai Vs. Bijoy Kumar and Ors.)**

3. Learned advocate appearing on behalf of the opposite party submits that the application for amendment has been filed only to correct certain typographical errors appearing in the original revocation application and as the proposed amendment is formal in nature, so if allowed will not change the nature and character of the revocation application.

4. Perused the schedule of amendment as well as impugned order. It appears that by way of amendment opposite party wants to insert the death of Hajarilal Shaw and Lauxmi Narayan Shaw and such typographical errors if allowed to be amended, neither party will have a cause to prejudice. The other part of the amendment application relates to the prayer made by the opposite parties wherein they want to incorporate in the petition that the legal heirs of deceased Hajarilal Shaw have caveatable interest over the deceased. If said portion of amendment is allowed, it will also not change the cause of action which has already been pleaded in the original application.

5. Now whether the opposite parties have any caveatable interest in the property or not will be decided after hearing but the proposed amendment, in my view is required to be allowed for the purpose of determination of the said dispute. Accordingly the order impugned does not suffer any infirmity which calls for interference by this Court under Article 227 of the Constitution of India.

C.O. 3197 of 2018 is accordingly dismissed without any order as to costs.

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

(AJAY KUMAR MUKHERJEE, J.)