

**ABDUS SABED & ORS. VS. ALTAF HOSSAIN
& ORS. `**

Mr. Saunak Bhattacharya

Mr. Debabrata Roy

..for the petitioners

Mr. Angshuman Chakraborty

..for the opposite party nos. 1&2

This revisional application has been filed challenging an order dated August 10, 2018 passed by the learned Civil Judge, Senior Division, Additional Court, Chinsurah, District Hooghly in Title Suit No. 119 of 2016.

By the order impugned, the learned Court below allowed the incorporation of a fact which happened subsequent to the filing of the suit. Such fact was with regard to the correction of the record of rights by the revenue authorities pursuant to an application made by the plaintiffs on the ground that the names of the defendants in the record of rights were erroneously recorded. The plaintiffs wanted to incorporate such facts as paragraph 7A of the plaint. In paragraph 7 of the plaint, the plaintiffs have already pleaded that the defendants by taking advantage of the erroneous recording of their names in respect of the suit property was trying to take peaceful possession of the property by hook or by crook and on the

strength of alleged record of rights, as a result of which, the plaintiffs were facing difficulties and in possessing the suit property on the basis of such erroneous recording. It has been averred that the defendants filed M.P. Case No.807 of 2013 in the Court of the Sub Divisional Executive Magistrate, Hooghly Sadar, Chinsurah under Section 144 of the Code of Criminal Procedure and the learned Magistrate on the basis of such documents directed the Officer In Charge, Pandua Police Station to look into the matter and see that no breach of peace arose. Thus, the averment in the plaint clearly indicated that the basis of the amendment sought to be incorporated was already there. Subsequently, on the application of the plaintiffs the record of rights were corrected.

This also has a presumptive value of correctness. The amendment sought for is for further clarification, further explanation as also to put on record subsequent developments. The merits of the amendment is not be considered.

Mr. Bhattacharya urges that when the rights of the plaintiffs were sought on the basis of the solenama entered into between the parties in Title Suit No.31 of 2016, whether the record of rights were corrected subsequently would not matter in the suit and the same fact was not necessary for proper adjudication of the dispute between the parties.

Having considered the nature of amendment, this Court is of the view that the amendment was to incorporate subsequent events in further clarification to the contention of the plaintiffs in paragraph 7 of the plaint. The defendants have also denied of paragraph 7 of the said plaint in the written statement stating that it was incorrect that the names of the defendants were erroneously recorded in the record of rights. Thus, the amendment sought for should be allowed. Whether the contents of the amendment would have any ultimate impact in the decision of the Court is not to be decided at this stage. The learned Court below has exercised its jurisdiction in accordance with law. This Court finds no reason to interfere with the order impugned.

Time to file additional written statement is extended by four weeks from date. The learned Court below shall expedite the hearing of the suit, without granting any unnecessary adjournments to either of the parties.

This revisional application is dismissed.

There will be however no order as to costs.

Urgent photostat certified copy of this order be given to the parties on priority basis, if the same is applied for.

(Shampa Sarkar,J.)

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