

06.01.2021
Court No. 19
Item No.18
CP

C.O. 1657 of 2020

Shajahan Bewa & ors.
vs.
Munni Bewa & ors.

Mr. Subhasish Bhattacharjee
Mr. Manas Ghosh

....for the petitioners.

Mr. S. Hazra
Mr. S. Mukherjee

...for the opposite parties

This revisional application has been filed by the defendants in Title Suit No. 17574 of 2014 being aggrieved by an order dated November 26, 2020 passed by the learned Civil Judge (Junior Division), 5th Court at Alipore. By the order impugned, an application for recalling of the order dated January 2, 2019 was rejected. By order dated January 2, 2019, the learned court below allowed an amendment application filed by the plaintiff for incorporation of certain facts to elucidate how the plaintiff's predecessor-in-interest had come into possession of the suit property. The learned court below upon consideration of the requirement for the amendment application as being clarificatory and elucidatory, permitted the same. The said order was not challenged by the petitioner before this court.

Thereafter, the application was filed for recalling of the said order belatedly and the learned court below rejected the application for recalling on the ground that the application was devoid of any merit and that the whole intention of the defendants was to drag the suit. The learned court below also observed that the defendants had always had the option to approach the higher forum against the order allowing such amendment.

The contention of the defendants that the Premises No. 13 Kedar Chatterjee Road was being amended to Premises No. 17 Kedar Chatterjee Road is not correct, inasmuch as, in the schedule of amendment, it has been mentioned that the premises was originally Premises No. 17 Kedar Chatterjee Road which was renumbered as Premises No. 13 Kedar Chatterjee Road when the said premises came under the Kolkata Municipal Corporation. The defendants further alleged that documents in support of such amendment was not filed. This is not correct. While allowing an amendment, the court is not supposed to go into the correctness of the amendments sought for. The correctness of the amendment will be decided at the time of trial. Thus the petitioners will have an ample opportunity to raise all such disputes at the trial.

The amendment was just an explanation/clarification as to how the property came

into the possession of the predecessor-in-interests of the plaintiff and a detailed description was given. The court has exercised its jurisdiction and passed an order.

This court will not interfere with the same. The revisional application is dismissed. There shall be no order as to costs.

It is expected that the learned court below will proceed with the hearing of the suit expeditiously.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)