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Ct. 18
23.08.2022

C.O. No. 381 of 2018

**Union Bank of India
Vs.
Terai Infrastructure Limited & Ors.**

Mr. Om Narayan Rai,
Mr. Rajdeep Mantha,
Mr. Supratim Goon ... For the petitioner.

Mr. Sagar Bandyopadhyay,
Ms. Soma Kar Ghosh ... For the O.P. No. 1.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendant no. 3 in a suit for declaration of title and injunction.

The application is directed against the order dated September 28, 2016 and order dated September 07, 2017, both passed by the learned Civil Judge, (Senior Division) at Jalpaiguri in the said suit being Title Suit No. 2794 of 2014 (Title Suit No. 52 of 2006).

The learned Trial Judge by the first order impugned has allowed an application filed by the plaintiff/opposite party no. 1 seeking amendment of the plaint and by the second order impugned has dismissed an application filed by the petitioner for recalling of the order allowing the said amendment.

Mr. Om Narayan Rai, learned advocate for the petitioner complains that the application for

amendment was allowed without giving his client an opportunity of being heard.

Mr. Sagar Bandyopadhyay, learned counsel for the plaintiff/opposite party no. 1 on the other hand submits that the suit is proceeding ex-parte against the petitioner as such, there is no question of affording an opportunity to the petitioner to contest the said application for amendment. He further submits that the proposed amendment is for the purpose of correcting the suit plot number and the deed number of the title deed of the plaintiff, which if allowed, would neither change the nature and character of the suit property nor would affect the rights of the parties to the suit.

Heard learned counsel for the parties, perused the materials-on-record.

The suit is proceeding ex-parte against the petitioner, as such it cannot complain that it was not given the opportunity to contest the said application for amendment.

The plaintiff, by the amendment is proposing to correct the typographical mistake in mentioning the suit plot number and the deed number of the title deed of the plaintiff mentioned in the plaint, therefore the said amendments being formal in nature and necessary for the effective disposal of the suit, the learned Trial Judge, therefore has rightly allowed the said application.

The order impugned, for the aforesaid reason, does not call for any interference.

The plaintiff is required to file the amended plaint, if not already filed, within two weeks from date.

The suit since is proceeding ex-parte against the petitioner, there is no scope to give it an opportunity to file additional written statement.

It is however made clear that this order will not prevent the petitioner to take appropriate steps for vacating the order whereby the suit has been fixed ex-parte against it.

C.O. 381 of 2018 is disposed of with the above observation without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)