

(23)
20.06.2022
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO No. 588 of 2018

Mulluk Chand Sardar
-versus-
Motihar Rahaman Sardar & anr.

Mr. Tarak Nath Halder,
Mr. S. Agrawal,
... for the petitioner.

Affidavit of service filed on behalf of the petitioner be taken on record.

None appears on behalf of the opposite parties in spite of service.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for declaration and injunction which is directed against the order no. 17 dated October 25, 2017 passed by the 3rd Court of learned Civil Judge (Junior Division), Basirhat, District: 24 Parganas (North) in the said suit being Title Suit No. 70 of 2015.

The learned Trial Judge by the order impugned has dismissed an application filed by the petitioner seeking amendment of the plaint holding that by the proposed amendment the plaintiff is seeking to withdraw his admission made in the plaint.

The plaintiff in the plaint has alleged that the defendants took his signature in a deed

representing the same as a deed of partition but the plaintiff when realized that it was not so, refused to present it before the concerned Registrar, the defendants, however managed to get the said deed registered by false impersonation.

The plaintiff by the amendment proposed under paragraph “Ka” of the schedule of amendment appended to the application under Order VI Rule 17 of the Code of Civil Procedure seeks to incorporate the allegation in the plaint that he never signed the said document, such statement is a clear attempt to withdraw his admission made in the plaint that he has signed the said document, therefore, the amendment proposed under paragraph ‘Ka’ of the said schedule cannot be allowed.

However, the amendment sought for in paragraphs “Kha”, “Ga” and addition of a new prayer mentioned in paragraph “Gha” under the said schedule can be allowed as those amendments, if allowed, would not change the nature and character of the suit, rather the same are in consonance with the stand of the plaintiff taken in the plaint.

The said application for amendment so far as it relates to the aforesaid paragraphs “Kha”, “Ga” and “Gha” under the said schedule of amendment is, therefore, allowed.

Accordingly, the plaintiff shall file the amended plaint within two weeks from date. The defendants are at liberty to file additional written statement within two weeks from the date of service of the copy of the amended plaint upon them.

The order impugned is modified to the extent indicated above.

CO 588 of 2018 is disposed of with the above terms without any order as to costs.

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

(Biswajit Basu, J.)