

10.05.2022
(D/L-13)
Ct.-18
(Susanta)

C.O. 847 of 2019
With
I.A. No. CAN 1 of 2021
I.A. No. CAN 2 of 2021

Sri Tapas Kumar Naskar
-Vs-
Sri Ranjit Naskar & Ors.

Mr. Mukteswar Maity,
Ms. Manika Sarkar,

.... For the Petitioner.

Affidavit-of-service files on behalf of the
petitioner in Court today be kept with the record.

In spite of service none appears on behalf of
the opposite parties.

The instant revisional application under
Article 227 of the Constitution is at the instance
of the plaintiff in a suit for partition and is
directed against the order dated January 15,
2019 passed by the 2nd Court of learned Civil
Judge (Senior Division), Alipore, District- 24-
Parganas (South), in the said suit being Title Suit
No. 116 of 2014.

The petitioner has prayed for declaration of
his share in respect of 29 decimal of land
comprised in Dag No. 1535. The suit has been
decreed in preliminary form declaring the shares
of the parties in the said land but the partition
commissioner during an inspection did not find

the said quantum of land in the said Dag No. 1535.

The petitioner thereafter sought amendment of the plaint to incorporate the Bata Dag of the said Dag i.e. 1535/2443 in the schedule of the suit property, appended to the plaint.

The learned Trial Judge by the order impugned has dismissed the said application holding that the amendment sought for is on the basis of the report of the partition commissioner which has not been accepted as such the said amendment is not necessary.

In a suit for partition all left out joint properties shall be allowed to be included so long the suit is not finally disposed of.

In the present suit has not yet reached to the said stage, therefore, the petitioner should be permitted to amend the plaint as prayed for.

The order impugned is set aside, the application for amendment of plaint is allowed.

The plaintiff shall file the amended plaint within two weeks from the date, the defendant is at liberty to file additional written statement within two weeks from the date of service of the copy of the amended plaint.

C.O. 847 of 2019 is allowed ex parte with the above terms without any order as to costs.

In view of the disposal of the revisional application, the application for extension of interim order being I.A. No. CAN 1 of 2021 and the application for condonation of delay thereto being I.A. No. CAN 2 of 2021 have become infructuous and are accordingly dismissed.

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.)