

(02)
08.06.2022
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO No. 893 of 2018

Sri Sourin Kumar Mukherjee
-versus-
Bally Balak Sangha Club & ors.

Mr. Abhijit Ray,
Mr. Shubham Gupta,
... for the petitioner.

The petitioner is represented on call but the opposite parties are not although the matter has been brought to the list upon mentioning of the opposite parties.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for declaration of title and recovery of possession and is directed against the order dated January 25, 2018 passed by the 1st Court of learned Civil Judge (Junior Division), Howrah in Title Suit No. 138 of 2013.

The learned Trial Judge by the order impugned has dismissed an application filed by the petitioner seeking amendment of the plaint.

In the suit the defendants have been described as the trespassers in the suit property. The plaintiff alleges that the defendants entered into the suit property with his permission but when were asked to vacate it, they refused. In tune to such case, the plaintiff by the proposed amendment is seeking to describe the defendants as licensees under him.

The learned Trial Judge has committed an error in dismissing the application for amendment holding that

the proposed amendment would change the nature and character of the suit. That apart, the order impugned is terse without having any reasons in support of the conclusion.

The order impugned for the aforesaid reasons is not sustainable and is accordingly set aside.

The application filed by the plaintiff for amendment of the plaint is allowed, the plaintiff to file amended plaint within two weeks from date. The defendants are also at liberty to file additional written statement to the amended plaint within two weeks from the date of receipt of the copy of the amended plaint.

The suit is pending since 2013, the learned Trial Judge is requested to expedite the disposal of the suit.

CO 893 of 2018 is thus disposed of 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.)