

22.06.2022
item No.22
n.b.
ct. no. 07

C.O. 1363 of 2022

Debasish Roy & Ors.
-Vs-
Purnima Chakraborty & Ors.

Mr. Sovan Dasgupta,
.... For the petitioners.
Mr. D. Mukherjee,
Ms. Susmita Chatterjee,
Mr. Kaustav Bhattacharya
... for the opposite party No. 1 to 3.

The subject matter challenge in this revisional application is against the rejection of a prayer under Order 1 Rule 10 of the Code of Civil Procedure praying for addition of the parties.

Learned advocate appearing for the petitioner submits that the parties, sought to be added are the legal heirs of one Monmohan Saha being daughters left behind by Monmohan Saha and admittedly they could not be impleaded in the plaint, while making institution of the suit.

It is, thus, submitted by the learned advocate for the petitioner that presence of legal heirs (daughters of Monmohan Saha) as added parties, are necessary for proper adjudication of pending litigation.

Per contra Mr. Mukherjee, learned advocate appearing for the opposite party submits that there has been a previous rejection of the self-same subject, though made under Order 6 Rule 17 of the Code of Civil Procedure.

It is also submitted by Mr. Mukherjee, that against the rejection of such application, petitioners preferred revisional application being C.O.1171 of 2021. It was subsequently dismissed for default.

In reply to the submission of Mr. Mukherjee, learned advocate for the petitioner has nothing to show that a restoration application has, thereafter, been filed to revive C.O. No.1171 of 2021. It is thus, clear that there has been previous rejection of the prayer, relatable to the subject under reference, made by the petitioner, whereby the legal heirs(daughters left behind by Monmohan Saha) were sought to be added as pro-defendants in the plaint. Mentioning of section, or wrong section even would hardly matter as it is purely instrumental to facilitate justice, but objective assessment of the averments, contained in the petition together with the prayers incorporated in the petition, is vital to return a decision by Court. It is, thus, immaterial whether there has been attempt made by the petitioner for imploding the legal heirs(daughters of Monmohan Saha) either by way of amendment or upon resorting to order 1 rule 10 of the Code of Civil Procedure. More so, it is suit of 2010, and the prayer for addition of

parties has been made in April 2022 i.e. after a delay of 12 years.

The impugned order does not call for any interference.

With this observation/direction, the revisional application stands disposed of.

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

(Subhasis Dasgupta, J.)