

22.07.2022  
Item No.31  
Ct. No.7  
CHC  
(disposed of)

**C.O.1537 of 2022**

**Sri Soumallya Chakraborty & ors.**  
**Vs.**  
**Smt. Saswati Chakraborti & ors.**

Mr. Arijit Sarkar,  
Ms. Prajaaini Das  
...for the petitioners

Petitioners assail that part of the impugned order dated 20<sup>th</sup> April, 2022, passed in Title Suit No.414 of 2018, by learned Civil Judge (Senior Division), Third Court, at Barasat, North 24 Parganas, granting amendment.

Admittedly, this a Partition Suit, wherein plaintiffs intended to incorporate certain facts, which they gathered during the pendency of the suit.

It is, thus, according to the opposite parties/plaintiffs that father of the plaintiffs and defendant no.2, namely, Samarendra Narayan Chakraborty and Subodh Kumar Chakraborty jointly purchased some property in 2002. Subsequently, Samarendra Narayan Chakraborty by a deed of gift dated 31<sup>st</sup> August, 2013 transferred his undivided half share in the purchased property to his brother Subodh Kumar Chakraborty. The said deed of gift, according to

the learned advocate for the petitioners is not under challenge.

Learned advocate appearing for the petitioners submits that the court below has mechanically granted the prayer for amendment without truly appreciating the objection disclosed in paragraph-‘6’ of the written objection filed by the petitioners/defendants.

It is also contended by the petitioners that the court below was rather confused about the fate of the amendment, and still then allowed the amendment simply to incorporate some properties within the hotchpot of partition, and the legal heirs of the plaintiffs have no plausible claim over such properties after the execution of the deed of gift made in 2013 by Samarendra Narayan Chakraborty to his brother Subodh Kumar Chakraborty.

The contention, thus expressed by the learned advocate for the petitioners is that all such attempt intending to bring some nonsuited properties within the hotchpot of partition should be discouraged particularly, when the deed of gift standing in the name of Samarendra Narayan Chakraborty is not under challenge.

Having considered the submission of learned advocate for the petitioners, the Court is of the view that though the prayer for amendment has been allowed, but there has been direction to file additional

written statement by the petitioners to controvert the proposed amendment.

That being position, the revisional application thus disposed of directing the petitioners to reinforce the objection as disclosed in paragraph-‘6’ of written objection supported by a copy of deed of gift dated 31<sup>st</sup> August, 2013, in the additional written statement to be filed by the petitioner.

This, would not, however, prevent the court below from framing an additional issue, if any, in terms of such disclosure made in the additional written statement to be filed by the petitioners/defendants.

Since it is a Partition Suit, logical conclusion of the suit may be reached at an early date, without granting unnecessary adjournment, unless it is extremely unavoidable.

Petitioner is directed to make communication of this order to the learned court below as well as to the opposite party and her learned advocate in the court below.

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.)**

