

09.11.2022  
Item No.1  
Ct. No.7  
CHC  
(disposed of)

**C.O.1700 of 2022**

**Sri Tarapada Gorai & ors.**

**Vs.**

**Sri Rohit Dutta & ors.**

Mr. Soumik Ganguli,  
Ms. Ankita Pradhan

...for the petitioners

Mr. Subhas Chandra Atha,  
Ms. Payel Paramanik

...for the opposite parties

Subject-matter of challenge in this revisional application is against the rejection of a prayer for amendment.

By order dated 31<sup>st</sup> May, 2022, learned Civil Judge (Junior Division), 1<sup>st</sup> Court, Bankura, rejected the prayer for amendment holding therein that the proposed amendment would change the nature and character of the suit.

Mr. Ganguli, learned advocate appearing for the petitioners submits that it is a suit for partition, and there has been some inadvertent mistake in making description of the suit property to the extent of the shares held by the co-sharers in the subject property, and as such, the description of the property disclosed in the relevant averment of the pleadings could not be disclosed with all arithmetical precision.

Mr. Ganguli further contends that though there are 12 serial in the proposed schedule of amendment, but it would not occasion in any change in the nature and character of the suit, because mostly are relatable to inadvertent arithmetical mistake in mentioning description of some properties to the extent of the shares held in the property, and some of the paragraphs are virtually in clarification of the averments already taken in the pleadings.

Per contra, Mr. Subhas Chandra Atha, learned advocate appearing for the opposite parties submits that there will be change in nature and character of the suit, because the entire exercise undertaken by the petitioners is to correct entire pleadings, as disclosed in 12 serials of the proposed schedule of amendment.

Having considered the submission of both sides, and upon perusal of the proposed schedule of amendment, it appears that description of properties could not be appropriately disclosed to the extent of the shares hold in the subject property, and some clarifications have been sought to be furnished by the proposed amendment with respect to some previous averments contained in the plaint.

Since it is a suit for partition, description of the suit property should be appropriately disclosed, otherwise there may be a future complication. There

will be no change in the nature and character of the suit.

For the discussion made hereinabove, the revisional application succeeds, upon setting aside the order dated 31<sup>st</sup> May, 2022, passed by learned Civil Judge (Junior Division), 1<sup>st</sup> Court, Bankura, in Title Suit Nol.122 of 2016.

Petitioners are permitted to furnish amended copy of plaint upon supplying a copy of the same well in advance to the opposite parties within ten (10) days from the date of communication of this order to the court below.

Upon accepting amended copy of the plaint and doing necessary corrections in the relevant registry maintained by the trial court, an opportunity may be granted to the opposite parties enabling them to furnish additional written statement, if any, with regard to the proposed amendment.

This would not, however, prevent the court below to frame additional issue, if any, with respect to the amended version of the plaint, and additional written statement, if any filed in the meantime.

Parties are directed to make communicate this order to 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.)**