

15.02.2022
Item No.08
Court No.18
AJ.

C.O. 2029 of 2019

(Through Video Conference)

Kalyan Kumar Das & Ors.

-Vs-

Kamalesh Das & Ors.

Mr. Sourajit Dasgupta.
... for the petitioners.

Mr. Rudra Prasad Motilal,
Mr. Shiladitya Barma.
....for the opposite party no.1.

The plaintiffs in a suit for partition are the petitioners of the present application under Article 227 of the Constitution of India and is directed against Order No. 153 dated January 10, 2019 passed by the 1st Court of the learned Civil Judge (Senior Division), at Asansol, District Paschim Burdwan in the said suit being Title Suit No. 96 of 1991.

The learned Trial Judge by the order impugned has dismissed an application filed by the petitioners seeking amendment of the plaint on the ground that if the proposed amendment is permitted to be introduced, a fresh trial is to be entertained after a lapse of twenty-six years of the filing of the suit.

On perusal of the application for amendment, it appears that the petitioners by the

proposed amendment are trying to elicit the description of the suit properties.

On perusal of the plaint and the description of the suit properties in the schedule appended to the plaint, it appears that the suit properties have been sufficiently described as such amendment sought for is unnecessary.

This Court although is not at one with the reasons recorded in the order in dismissing the said application for amendment but conclusion being correct is not inclined to interfere with the order impugned.

For the reasons discussed above C.O. 2029 of 2019 is dismissed without any order as to costs.

The learned trial Judge is requested to expedite the disposal of the suit and in doing so shall not entertain the prayer of the parties for any unnecessary adjournment.

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.)