

14.02.2022
(S/L-29)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 2180 of 2019

Ayesha Bewa & Ors.
-Vs-
Ajibul Mondal & Anr.

Mr. Siddhartha Sankar Mandal,
Ms. Arunima Das,
.... For the Petitioners.

The opposite parties are not represented in spite of service.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiffs in a suit for recovery of possession and is directed against the order no. 39 dated February 12, 2019 passed by the 2nd Court of learned Civil Judge (Junior Division), Krishnanagar, Nadia in the said suit being Title Suit No. 63 of 2016.

The petitioners allege that in violation of the subsisting order of injunction passed in the said suit some third parties have dispossessed them from the suit property.

The petitioners to incorporate the said facts sought amendment of the plaint and applied for addition of the said third parties in the said suit.

The learned trial Judge has dismissed the said applications holding that the petitioners are seeking to incorporate the said facts in the plaint

to get redressal for the alleged violation of the said order of injunction, without resorting to the specific provisions of the Code for such relief.

The learned Trial Judge was under complete misconception of the purport of the said applications.

The petitioners are seeking addition of the parties who have allegedly dispossessed them from the suit property and seeking incorporation of the facts in support of their allegations of dispossession from the suit property.

To avoid multiplicity of proceedings, the amendment of the plaint and addition of the said parties to the suit are necessary, as such the order impugned is, therefore, not sustainable and is accordingly set aside.

The applications filed by the petitioners for amendment of plaint and addition of the parties are allowed.

The petitioners are required to file amended plaint within two weeks from date. A copy of such amended plaint be served upon the defendants. The defendants are at liberty to file additional written statement against the amended plaint within fourteen days from the date of receipt of the copy of the amended plaint.

The petitioners are required to take steps for amendment of the cause-title of the plaint to add

the names of parties mentioned in the application under Order I Rule 10(2) of the Code.

C.O. 2180 of 2019 is allowed with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the party subject to compliance with all requisite formalities.

(Biswajit Basu, J.)