

(24)
21.02.2022
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

(Via Video Conference)
CO No. 2525 of 2019
Smt. Swapna Ghosh & anr.
-versus-
Sri Samarendra Ghosh

Mr. Sudipta Dasgupta,
Mr. Jayanta Kumar Sanyal,
Mr. Anath Nath Naskar,
Mr. Sutirtha Nayek,

... for the petitioners.

Mr. Shuvro Prokash Lihiri, ... for the opposite party.

The revisional application is at the instance of the defendants in a suit for declaration of title and injunction which is directed against the order no. 78 dated February 20, 2019 passed by the 4th Court of learned Civil Judge (Junior Division) at Serampore, District : Hooghly in the said suit being Title Suit No. 140 of 2013.

The learned Trial Judge by the order impugned has allowed an application filed by the plaintiff – opposite party seeking amendment of the plaint.

Learned counsel for the petitioner submits that the amendment sought for is barred by limitation since by the proposed amendment the plaintiff sought to challenge a deed of gift executed in the year 1989.

Learned counsel for the plaintiff-opposite party submits that from the written statement of the defendants the plaintiff for the first time came to learn about the existence of the said deed of gift and accordingly, sought amendment of the plaint to

incorporate the averments disputing execution of the said deed.

Heard the learned counsel for the parties, perused the materials-on-record.

The defendants are tracing their title over the suit property through a deed of gift allegedly executed by the plaintiff and in their written statement they have set up the said deed as their defence in the suit.

The plaintiff by the proposed amendment has only sought to incorporate the statement that he never signed or executed the said deed without seeking any decree impeaching the said deed.

Admittedly, the trial of the suit has not yet commenced.

The amendment sought for is not barred by limitation in view of its nature.

The learned Trial Judge has not committed any error in allowing the said application for amendment. The order impugned therefore does not call for any interference.

CO 2525 of 2019 is dismissed without any order as to costs.

The defendants are permitted to file their additional written statement to the amended plaint within two weeks from date, if not already filed.

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

(Biswajit Basu, J.)