

(04)
17.02.2022
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

**(Via Video Conference)
CO No. 3534 of 2019**

**Sri Badal Das & ors.
-versus-
Sri Nemai Chandra Sandhukhan & anr.**

Mr. Tanmoy Mukherjee,
Mr. Rudranil Das,
... for the petitioners.

Mr. Sandip Dinda, ... for the opposite parties.

The matter although has been brought to the list for extension of interim order but by consent of the parties it has been taken up for final disposal also.

The plaintiffs in a suit for permanent injunction are the petitioners of the present application under Article 227 of the Constitution of India which is directed against the order no. 30 dated August 19, 2019 passed by the 1st Court of learned Civil Judge (Junior Division), Howrah in the said suit being Title Suit No. 1579 of 2016.

The learned Trial Judge by the order impugned has dismissed an application filed by the plaintiffs seeking amendment of the plaint on the ground that the trial of the suit has commenced.

Mr. Tanmoy Mukherjee, learned counsel appearing on behalf of the petitioners submits that subsequent to the dismissal of the said application for amendment, the written statement with counterclaim

filed by the defendant no. 1 although was not accepted by the learned Trial Judge on the ground of delay but the order of the learned Trial Judge was set aside in revision being CO 2817 of 2019 and on acceptance of such written statement with counter-claim, the suit is no longer at the peremptory hearing stage and in view of such changed circumstances, Mr. Mukherjee prays that the learned Trial Judge may be directed to reconsider the said application for amendment .

I find substance in the aforesaid submission of Mr. Mukherjee.

The order impugned is set aside.

The learned Trial Judge is requested to reconsider the application for amendment filed by the plaintiffs/petitioners afresh in accordance with law.

CO 3534 of 2019 is disposed of with the above terms.

However, there shall be no order as to costs.

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

(Biswajit Basu, J.)