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AG 2022
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C.O. 3538 of 2019
IA No: CAN 1 of 2020, CAN 2 of 2020,
CAN 3 of 2020

Smt. Gayatree Banik & Ors
Vs
Shri Ajit Naskar @ Ajit Kumar Naskar & Anr

Mr. Krishanu Banik, ... For the petitioners.

Mr. Dipak Kumar Mukherjee,
Mr. Rajib Mukherjee,
Smt. Supriya Dey Barat,
Ms. Shreyasi Bhaduri,
... For the Municipality.

The subject matter of challenge in this revisional application is against the order, dated 30th August, 2019, passed by learned Civil Judge (Junior Division), Additional Court, Serampore, Hooghly in Title Suit No. 119 of 2017 rejecting the prayer for proposed amendment.

Mr. Krishanu Banik, learned advocate appearing for the petitioners submits that learned Court below has fundamentally rejected the prayer for proposed amendment upon attracting the proviso appended to Order 6 Rule 17 of the Code of Civil Procedure. Mr. Banik further submits that some typographical errors in the pleadings were sought to be corrected upon inviting the proposed amendment.

Per contra, Mr. Dipak Kumar Mukherjee,

learned advocate appearing for the opposite parties supporting the order of the Court below, submits that petitioners were not careful in exercising their due diligence at the appropriate point of time to seek the proposed amendment.

Having considered the submissions of both the sides, it appears that there has already been commencement of the trial. The proposed schedule of the amendment will not leave anything to suppose that there will be change in the nature and character of the suit, in the event of the amendment being allowed.

Though sufficient explanation could not be offered that there has been exercise of due diligence to seek for proposed amendment, but that should not be treated to be a fatal, so as to reject the proposed amendment.

The impugned order as such is not sustainable. Accordingly, the same is set aside.

The prayer for proposed amendment be allowed giving liberty to opposite parties/defendants to furnish additional written statement, if there be any, after accepting the amended copy of the written statement within seven days from the date of communication of this order to the Court below.

This would not, however, prevent the Court below to frame additional issue, if any by the

proposed amendment.

With these directions and observations, the revisional application stands disposed of.

All connected applications are accordingly disposed of.

(Subhasis Dasgupta, J)