

(02)
16.06.2022
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO No. 4317 of 2019
(IA No: CAN 1 of 2022)

Kumari Dipu Roy
-versus-
Smt. Namita Halder & ors.

Mr. Sukumar Ghosh,
... for the petitioner.

Mr. Sukumar Ghosh, learned counsel for the petitioner, files affidavit of service which is taken on record.

None appears on behalf of the opposite parties in spite of service.

The matter has been brought to the list at the instance of the petitioner for extension of interim order. However, since the matter is ready for hearing, the same is taken up for final disposal.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for declaration of title and recovery of possession, which is directed against the order no. 91 dated September 06, 2019 passed by the 2nd Additional Court of learned Civil Judge (Junior Division), Diamond Harbour, District : 24 Parganas (South) in the said suit being Title Suit No. 124 of 2016.

The learned Trial Judge by the order impugned has dismissed an application filed by petitioner seeking amendment of the plaint on the ground that proposed amendment, if allowed, would change the nature and character of the suit.

On perusal of the application for amendment, it appears that the plaintiff by the proposed amendment is seeking to elucidate the quantum of land comprised in the suit properties, such amendment if allowed, would certainly not change the complexion of the suit. Therefore, the learned Trial Judge was not justified in refusing the said prayer of the petitioner.

The application for amendment of the plaint therefore is allowed.

The plaintiff/petitioner shall file the amended plaint within two weeks from date. The defendants/opposite parties are at liberty to file the additional written statement within two weeks from the date of service of copy of the amended plaint.

CO 4317 of 2019 is **disposed of** with the above terms without any order as to costs.

In view of disposal of the main matter, the connected application being CAN 1 of 2022 for extension of interim order has become infructuous and is **dismissed** accordingly without any 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.)