

21.06.2022
(D/L-30)
Ct.-18
(Susanta)

C .O. 4399 of 2019

Subhadra Das
Vs.
Bidur Pramanik & Ors.
Ms. Sandip Das,
.....For the Petitioner.

Affidavit-of-service files in Court today be kept with the record.

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

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 is directed against the order no.44 dated August 14, 2019 passed by the learned Civil Judge (Junior Division), Kakdwip in Title Suit No. 94 of 2013.

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

The petitioner in the application for amendment has alleged that during the pendency of the suit the defendants have encroached upon a portion of the suit property by force.

The defendants to recover the said encroached portion of the suit property by the proposed amendment are seeking to incorporate a prayer for mandatory injunction and necessary averments in support of the said prayer in the plaint.

The events happened subsequent to the filing of the suit, are required to be brought on record to avoid the multiplicity of proceeding, as such the proposed amendments is necessary.

The order impugned for the aforesaid reason, is set aside.

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

C.O. 4339 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 parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)