

Item No. 86
03.08.2023
Court. No. 19
GB

C.O. 1167 of 2022

Sri Nakul Chandra Dey
Vs.
Dhiraj Sanbui

Mr. Shuvro Prakash Lahiri

...for the Petitioner.

*Mr. Ayan Banerjee,
Ms. Debasree Dhamali*

...for the Opposite Party.

This Court does not find any need to interfere with the order impugned dated April 6, 2022 passed by the learned Civil Judge (Senior Division) at Chandannagore in Title Appeal No.17 of 2020, for the following reasons:-

- a) The deed of gift sought to be relied upon by incorporating the same by an amendment in the written statement at the appellate stage, has been marked as an exhibit before the learned trial court.
- b) A contrary plea is sought to be raised at the fag end of the appeal, when arguments were almost complete.
- c) The appeal was finally heard out and adjourned for delivery of judgment. The judgment is fixed for delivery on August 11, 2023.
- d) When the document was already marked as exhibit, it is expected that the learned lower appellate court will consider the same in its correct perspective and in accordance with the principles of law.

- e) Moreover, it appears that the written statement was in bengali but the schedule of amendment was in English. The defendant wanted to incorporate a paragraph in english in the written statement, which was in vernacular.
- f) The application for amendment does not indicate that in spite of due diligence the facts to be incorporated by the proposed amendment could not be brought on record at the appropriate stage.
- g) The amendment is clearly barred by the proviso to Order 6, Rule 17 of the Code of Civil Procedure.

Accordingly, the revisional application is disposed of.

However, there will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)