

July 5, 2023
Sl. No.23
Court No.19
s.biswas

CO 1817 of 2023

Integrated Project Management and services

vs.

Anser Daptary and another

Mr. Sanjoy Bose

Mr. P. B. Mullick

... for the petitioner

The plaintiff in a suit for settlement of accounts, recovery of money and injunction, has filed this revisional application challenging the order dated May 3, 2023 passed in Title Suit No.20842 of 2011, which is pending before the learned Civil Judge (Junior Division), 2nd Court at Alipore.

It is contended that the learned court below had fixed June 26, 2023 for hearing of an application for amendment of the written statement filed by the defendants at the stage of arguments and when the evidence of DW had been fixed by the court, as a last chance.

Mr. Bose, learned advocate appearing on behalf of the petitioner, submits that the series of orders which were passed in the said suit would indicate that due to negligence and laches on the part of the defendants, the learned court below had once closed the evidence and thereafter such order of closure of evidence was recalled and DWs were allowed to adduce evidence, as a last chance, upon payment of cost of Rs.3000/-.

Although Mr. Bose invites this court to decide the issue as to whether the application for amendment could be entertained at the stage of arguments when the facts sought to be incorporated were already within the knowledge of the defendants, this court is of the view that such issue has to be decided by the learned trial court where such application has been filed.

An application under Order 6 Rule 17 of the Code of Civil Procedure was filed by the defendants and the learned court instead of initiating the evidence of DW, kept the application under Order 6 Rule 17 of the Code of Civil Procedure for hearing and the plaintiff was directed to file written objection.

Although the court appreciates the agony of the petitioner caused by the inordinate delay in the disposal of the suit which is pending since 2011, this Court cannot prevent a party from filing an application in terms of the provision of law. Whether the same shall be allowed or not, of course, will be decided by the learned court below. But Mr. Bose's prayer that this court should stop the defendants from filing the application and direct recording of evidence of DW, cannot be allowed.

However, this court directs that the application under Order 6 Rule 17 of the Code of Civil Procedure

must be disposed of on the next date fixed by the learned court below, i.e., August 7, 2023. The objection to the same shall be filed and served upon the learned advocate appearing on behalf of the defendants in the learned court below within two weeks from date. Upon disposal of the application for amendment of the written statement, the evidence of DW should be concluded within three days thereafter. The suit shall be disposed of within the following four months.

The revisional application is thus disposed of, without entering into the merits of the application as also without going into the merits of the suit. The learned court will proceed independently.

All the parties are directed to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)