

September 25, 2023
Sl. No.448
Court No.19
s.biswas

CO 3286 of 2023

Sri Basudeb Mondal
vs.
Joydeb Mondal and others

Mr. Debjit Mukherjee
Ms. Dipanwita Ganguly

... for the petitioner

The revisional application has been filed against an order dated August 8, 2023, passed by the learned Civil Judge (Senior Division), Chandernagore, in Title Suit No.875 of 2017, which is renumbered from Title Suit No.126 of 2003.

By the order impugned, the learned court below rejected an application for amendment of the written statement with cost of Rs.1,500/-. Such amendment was rejected on the following grounds:

- a) The defendants wanted to incorporate certain facts which were mere denials of the statements made by the plaintiff in the amended plaint. Such denials were not made when opportunity was given to the defendants to file their additional written statement.
- b) The amendment was sought to be incorporated at least seven years after commencement of the trial, without any explanation.
- c) Moreover, couched in a different language, the defendants wanted to incorporate

statements which were sought to be incorporated by two earlier applications which had been rejected by orders dated December 17, 2018 and June 7, 2022. None of those orders had been challenged before any superior forum.

This court does not find any error of jurisdiction of the learned court below. Admittedly, the facts which could have been denied by filing additional written statement at the relevant time, were sought to be brought in after seven years from the commencement of the trial, without any explanation as to why such delay occurred in filing the amendment application. Secondly, two earlier applications for amendment, seeking to incorporate the same averments and challenges, were both rejected earlier.

Under such circumstances, the revisional application is dismissed. There will be no order as to costs.

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)