

17.10.2023
Item No. 10
Ct. No. 7
PG

C.O. 3454 of 2023
Sasthi Pada Nandy & Anr.
Vs.
Ganesh Chandra Patra

Mr. Rupayan Deb.....for the petitioners

Mr. Maidul Islam Kayal.....for the opposite party

The order no. 12 dated 5th January, 2023 passed by the learned Civil Judge (Junior Division), 1st Court at Barasat in Title Suit No. 452 of 2021 is under challenge in this revisional application.

The opposite party herein filed a suit for declaration of title and permanent injunction. Subsequently, an application under Order 6 Rule 17 of the Code of Civil Procedure has been filed by the opposite party herein praying for incorporation of certain subsequent events.

It appears from the schedule of the application for amendment that the plaintiff has stated that the defendants have started accumulating building materials in the eastern portion of the property and have started to fill up the vacant portion of the land by casting mixture of building materials.

It is well-settled that an application for amendment is maintainable in order to incorporate the subsequent events. After going through the amendment sought for, this Court is of the

considered view that incorporation of the subsequent events is necessary for the purpose of deciding the real questions in controversy between the parties. Such amendment is necessary in order to avoid multiplicity of proceedings. To the mind of this Court the learned trial Judge was right in allowing the application for amendment of the plaint.

The learned advocate for the petitioners refers to a decision of the Hon'ble Supreme Court in the case of **State of A.P. & Ors. v. Pioneer Builders, A.P.** reported at **(2006) 12 SCC 119** in support of his contention that by way of amendment of the plaint, the nature and character of the suit cannot be changed. In the said reported decision, the petition under sections 8 and 20 of the Arbitration Act was sought to be converted into a civil suit by filing an application under Order 6 Rule 17 of the Code. The said decision being distinguishable on facts, is of no assistance to the petitioner in the case on hand.

Insofar as the decision of the Hon'ble Supreme Court in the case of **State of Madhya Pradesh & Ors. v. Kashiram (Dead) by LR. & Ors.** reported at **(2010) 14 SCC 506**, relied upon by the petitioner, the Hon'ble Supreme Court while dealing with a land acquisition proceeding observed that the claim for compensation was allowed to be amended without proper consideration of the question as to whether

such amendment was warranted. The said decision being distinguishable on facts, does not have any application to the case on hand.

In view of the above, C.O. 3454 of 2023 stands dismissed.

There shall be, however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties expeditiously upon usual formalities.

(Hiranmay Bhattacharyya, J.)