

09.02.2023
Item No.13
Ct. No.7
CHC
(disposed of)

C.O. 3420 of 2022

Kumud Chakraborty & anr.

Vs.

Sasadhar Purkait & ors.

Mr. Sounak Bhattacharya,
Mr. Sounak Mandal,
Mr. Anirban Saha Ray

...for the petitioners

Mr. Shah Jamal Hazra

...for the opposite parties

Subject-matter of challenge in this case is against the order dated 3rd June, 2022, passed by learned Civil Judge (Junior Division), 3rd Court, at Baruipur, South 24 Parganas, allowing amendment of the written statement.

Mr. Bhattacharya, learned advocate appearing for the petitioners/plaintiffs submits that the court below has not gone into the points disclosed in the objection petition vide paragraphs- 8, 9, and 11 therein, and thus decided the proposed amendment of the written statement with an erroneous approach.

Mr. Hazra, learned advocate appearing for the opposite parties upon denying the submission of Mr. Bhattacharya replies that the proposed schedule of the amendment will not cause any change in the nature and character of the suit, and more so, when

there has not yet been commencement of the trial, the court below committed no wrong in allowing amendment of the written statement.

Having considered the submission of both sides, and upon perusing the proposed schedule of the amendment *vis-à-vis* objection submitted by the petitioners/defendants, it appears that the objection disclosed in paragraphs-8, 9 and 11 of such objection petition could not be appropriately gone into, and as such, the amendment application has not been disposed of upon addressing all points, that ought to have been addressed by the court below.

The revisional stands disposed of upon setting aside the impugned order dated 3rd June, 2022, passed in Title Suit No.99 of 2017, of learned Civil Judge (Junior Division), 3rd Court, at Baruipur, South 24 Parganas, with direction upon the court below to hear out the same afresh subject to the suitability and convenience of the court below, providing sufficient opportunity of hearing to either of the parties to this case, but without granting any unnecessary adjournment, unless it is extremely unavoidable, preferably within six (06) weeks from the date of communication of this order to the court below.

Parties are directed to make communication of this order to the court below.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)