

July 25, 2023
Sl. No.7
Court No.19
s.biswas

CO 3565 of 2022

Baruipara Rakhal Vidyapith Board of Trust
vs.
Kartick Mondal and another

Mr. Indranath Mukherjee
Mr. Sukanta Mondal

... for the petitioner

Mr. Asimesh Goswami
Ms. Poulomi Banerjee
Ms. Priyanka Dutta

... for the opposite parties

The revisional application has been filed challenging an order dated August 16, 2022, passed by the learned Civil Judge (Junior Division), 1st Court, Chandernagore, Hooghly. By the order impugned, the learned court below allowed an application filed under Section 151 of the Code of Civil Procedure, by which the plaintiff sought to produce documents in favour of his case and get them marked as exhibits. The copies were accepted, and the learned court below held that the parties were free to raise the issues regarding admissibility of the said documents at the stage of argument. No one has challenged such order.

A question has been raised with regard to the second part of the order, by which the application of amendment for the plaint was rejected. According to the learned court below, the application was belated and filed at the argument stage. The reason for such belated amendment was not available. The

application did not indicate that in spite of due diligence, the petitioner was not in a position to bring the facts sought to be incorporated by way of the amendment, before the learned court below on any earlier occasion.

Mr. Mukherjee submits that the amendment was formal in nature and a correction of a bona fide mistake. The quantum of land mentioned in the schedule was sought to be rectified.

This court finds that for the ends of justice, the amendment should be allowed as the amendment was with regard to correction of quantum of land in respect of a plot of land which is the subject matter of the present litigation.

The real controversy in the suit can be decided only when such amendment is allowed. Although belated, such amendment should be allowed for the ends of justice. However, as the amendment was brought at the stage of arguments, the defendants should be compensated. Cost of Rs.3000/- be paid to the defendants within two weeks from date. Allowing the amendment will amount to putting the clock back to a certain extent and hence, the delay cannot be condoned unless the opposite parties are adequately compensated for the injury suffered on account of such delay.

Under such circumstance, the revisional application is allowed. The plaintiff is allowed to file amended plaint within a period of three weeks from date. An additional written statement to such amended plaint, shall be filed by the defendants, if advised, within two weeks thereafter. The learned court may frame additional issues, if required, pursuant to the amendment. Parties shall be at liberty to recall witnesses, if necessary. Thereafter fresh arguments shall be advanced by the parties and the suit should be disposed of within a period of two months from the completion of the pleadings.

The order impugned, to the extent of rejecting the amendment, is set aside.

The revisional application is thus disposed of.

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

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.)