

18.04.2023
Court No. 654
Item no.201
sn

C.O. 3909 of 2022

Shyamal Kanti Mitra
Vs.
Ajoy Kumar Mitra & Ors.

Mr. Sandip Ghose
Mr. Debayan Ghosh

...for the petitioner

This is an application under Article 227 of the Constitution of India filed by plaintiff no.3-petitioner for expeditious disposal of Title Suit No.837 of 2017 pending before the learned Civil Judge(Sr. Division), 1st Court at Barasat, North 24 Parganas.

The brief fact of the case is that plaintiffs filed a suit for partition and permanent injunction in respect of the suit property being Title Suit No. 837 of 2017. During the pendency of the suit, plaintiff no.1 Pratima Mitra (since deceased) and the plaintiff no.2 Purnima Ghosh gifted their shares in favour of the plaintiff. The name of the deceased plaintiff nos. 1&2 has been expunged. The plaintiff no.3-petitioner filed an application under Order VI Rule17 of the Civil Procedure Code for amendment for incorporating his share in the suit property to the extent 3/4th. Such application for amendment has not yet been disposed of. The trial is yet to commence.

In the aforesaid backdrop, the plaintiff no.3-petitioner has filed this application for expeditious hearing of the suit.

Mr. Sandip Ghose, learned advocate for the petitioner submits that since the share of the plaintiffs/petitioners and the defendants is admitted position, hence, the hearing of the suit should be expedited by the Trial Court.

It is found from the order sheets annexed to the revisional application that the plaintiffs filed an application for amendment of the plaint. Such application is still pending for disposal and the date has been fixed on 26th April, 2023 as stated by the petitioner in paragraph 12 of the application.

Accordingly, the learned Trial Court is directed to hear out the application for amendment on the date fixed or on such other day, as it deems fit and proper. The application for amendment be disposed of preferably within a period of two months from date of communication of this order. The Trial Court is further directed to proceed expeditiously with the hearing of the suit without granting unnecessary adjournments to either of the parties in accordance with law.

Petitioner is directed to communicate this order to the learned Trial Court to the opposite

parties as well as their learned advocates in the Trial Court.

With the aforesaid observations, the civil revisional application being C.O. 3909 of 2022 stands disposed of.

All connected applications, if any, stand dismissed.

Interim order, if any, stands vacated.

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of necessary legal formalities.

(Bivas Pattanayak, J.)