

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Civil Revisional Jurisdiction**

CO 118 of 2022

**Ramesh Chandra Roy
-versus-
Lalit Barman**

Mr. Subhasish Misra

...for the petitioner.

Mr. Hillol Saha
Ms. Mousumi Das

... for the respondent.

Counsel for the respective parties are present.

The plaintiff has filed the present revisional application challenging the order passed by the learned Civil Judge (Junior Division), Additional Court, Sadar, Coochbehar vide order no.67 dated 18th August, 2022 in Title Suit No. 21 of 2017 wherein the learned Judge has rejected the application filed by the plaintiff under Order VI Rule 17 of the Code of Civil Procedure. The plaintiff has filed the suit for declaration of injunction. By way of an application under Order VI Rule 17, the plaintiff prays for amendment in paragraph 1 also by adding paragraph 1(a) in the plaint as mentioned in the proposed amendment which reads as follows : -

- I. In the last line of para 1 of the plaint the full stop “.” will be deleted and sentence will be

inserted as “and by way of registered gift deed no.5867 dated 17.06.1969.”

- II. After para 1 new sub para will be inserted as “It is noted that when the plaintiff was minor the plaintiff’s father i.e. Jogendra Chandra Barman gifted 4.00 acres of land to the plaintiff by way of registered gift deed no.5869 dated 17.06.1969 and after attain majority of the plaintiff, the plaintiff look after the suit land. At the execution of gift deed the title of the plaintiff’s father and plaintiff were Barman and there after the title of the plaintiff and title of the plaintiff’s father has been changed as Roy and it is fact that the plaintiff father name Jogendra Ch. Barman @ Jogendra Ch. Roy and Ramesh Ch. Barman @ Ramesh Ch. Roy same and one identical person.”

By way of amendment application, the plaintiff intends to bring on record with regard to the registered deed no.5867 dated 17.06.1969 as well as the changed name of the father Jogendra Chandra Barman @ Jogendra Chandra Roy and the changed name of plaintiff as Ramesh Chandra Barman @ Ramesh Chandra Roy.

The learned Judge while considering the application filed by the plaintiff held that Court cannot declare the change of name of the plaintiff and his father by way of amendment. The learned Judge failed to appreciate that only the fact bringing on record by way of amendment cannot be said that the same is proved. If any facts brought on record by way of

amendment, the said fact is required to be proved by evidence.

In view of the above, this Court finds that the order passed by the learned Civil Judge (Junior Division), Additional Court, Sadar, Coochbehar is not sustainable and accordingly, the same is set aside. The application for amendment is allowed.

Petitioner is directed to file amended plaint within two weeks from date and the opposite party is at liberty to file additional written statement, if any, within two weeks thereafter.

CO No. 118 of 2022 is thus disposed of.

(Krishna Rao, J.)