

March 12, 2024
Sl. No.16
Court No.19
s.biswas

CO 13 of 2022

Ayes Ali @Ayesk Sk and others

vs.

Amjad Sk and others

Mr. Subrata Ghosh

... for the petitioners

The revisional application arises out of an order dated February 22, 2021 passed by the learned Civil Judge (Senior Division), 2nd Court, Lalbagh, Murshidabad.

According to the learned court, the question of maintainability of the suit could not be decided once again as on an earlier occasion dated September 6, 2019, the defendants had also submitted that the suit should be dismissed as not maintainable, but instead of dismissing the suit, the learned court expunged the names of the plaintiff nos.3 to 19 and 22 from the array of the plaintiffs. The said plaintiffs contended before the court that they had not signed the vakalatnama and had not filed the suit. Thus, the learned Trial Judge expunged their names from the array of plaintiffs.

Subsequently, the remaining plaintiffs were also allowed to add parties to the suit, on the basis of an application under Order 1 Rule 10(2) of the Code of Civil Procedure.

Under such circumstances, this court does not find any illegality in the order impugned. The court

by an order dated September 6, 2019, had found the suit to be maintainable at the instances of the other plaintiffs, but expunged the names of the plaintiffs, who had raised objections with regard to the signature. Secondly, the remaining plaintiffs were allowed to add necessary parties in the suit. Under such circumstances, the question of non-maintainability of the suit cannot be decided at this stage. Such issue shall be decided along with other issues in the suit.

The revisional application is accordingly 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.)