

S/L 27
16.7.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 169 of 2024

Sri Ashok Mukherjee & Ors.

Vs.

Sri Sri Sitala Estate & Ors.

Mr. Ashok Kumar Banerjee, Sr. Adv.

Mr. Amal Saha

Mr. Debnath Mahata

...for the Petitioners.

Mr. Ayanava Bhattacharya

...for the Opposite Parties.

Affidavit of service filed on behalf of the petitioner be kept with the record.

The plaintiffs in a suit for declaration are the petitioners of the instant application under Article 227 of the Constitution of India which is directed against Order No.18 dated December 14, 2023 passed by the 2nd Court of learned Civil Judge (Junior Division), Serampore in the said suit being *Title Suit No.295 of 2022.*

The learned Trial Judge by the order impugned has dismissed an application filed by the plaintiffs under Order VI Rule 17 of the Code of Civil Procedure praying amendment of the plaint on the ground that in the application, the amendments sought for have not been mentioned under a schedule.

Mr. Ashok Kumar Banerjee, learned senior advocate for the petitioner drawing my attention to the application for amendment, submits that the proposed amendments have been detailed under a schedule appended to the application, the learned Trial Judge has totally overlooked it.

Mr. Ayanava Bhattacharya, learned advocate for the opposite parties submits that he is not supporting the order impugned; he however prays that the pending application for injunction may be disposed of expeditiously.

Heard the learned counsel for the parties, perused the materials on record.

The trial of the suit has not yet commenced; It appears from the written objection to the application for amendment that the opposite parties had objected to the proposed amendment on the ground that the facts sought to be incorporated by the amendment are false, baseless and are extraneous to the issues involved in the suit but those are not relevant considerations in deciding an application for amendment of pleadings.

The order impugned is not sustainable and is accordingly set aside.

The plaintiffs are directed to file the amended plaint **within 14 days from date**; the defendants are at liberty to file additional written statement **within 14 days from the date of receipt of the copy of the amended plaint**.

There is already a direction passed by a coordinate Bench of this Court in *CO 2557 of 2022* on November 25, 2022 for expeditious disposal of the application for injunction; adhering to the said direction, the learned Trial Judge is requested that adhering to the said direction, he shall make all endeavour to dispose of the said application as expeditiously as possible and in doing so shall not grant any unnecessary adjournment to either of the parties.

CO 169 of 2024 is disposed of with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)