

08.07.2024
Item No.08, DL
Ct.19
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 523 of 2024

Sri Nayantara Dey & Ors.

-Vs-

Sri Shyamapada Bag & Ors.

Mr. Soumik Ganguly,
Mr. Chittapriya Ghosh,
Mr. Samir Kumar Adhikari.
...for the petitioners.

Mr. Tarapada Das,
Mr. Mahadeb Khan.
...for the opposite party
2, 6 & 11.

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

The matter has been brought to the list at the
instance of the petitioners for extension of Interim Order,
but the parties have consented to the final disposal of it.

The instant application under Article 227 of the
Constitution of India is at the instance of the defendant
no.1 (Kha) to (Ungo) in a suit for declaration which is
directed against Order No. 201 dated January 31, 2024
passed by the 1st Court of the learned Civil Judge (Junior
Division), Khatra, District: Bankura in the said suit being
Title Suit No. 143 of 1991.

The learned Trial Judge, by the order impugned,
has dismissed an application filed by the petitioners for
amendment of their written statement.

The suit was dismissed, but in the appeal, the
judgment and decree of the learned Trial Judge were set
aside and the suit was remanded for a fresh trial. An
additional issue was framed in the said appeal for
determination of the defence of the petitioner that there

was a previous amicable partition amongst the co-sharers of the suit properties.

The defendants/petitioners, by the proposed amendment, sought to incorporate the date of the said amicable partition in their written statement.

Section 14 of the Land Reforms Act, 1955 puts a restriction that partition of a plot of land amongst the co-sharers of a raiyat shall be made by a registered instrument or by a decree or order of the Court.

The said provision came into force with effect from August 07, 1969; therefore the date of amicable partition is very much relevant to adjudge the admissibility of the said document.

The amendment sought for is absolutely necessary for proper adjudication of the dispute between the parties.

The order impugned is, therefore, set aside; the application for amendment is allowed.

The petitioners are directed to file amended written statement within a period of **fourteen days** from date.

C.O. 523 of 2024 is thus allowed 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 copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)