

19.06.2024
(M/L-99 & 101)
Ct.-19
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 752 of 2024
With
C.O. 754 of 2024

Ramendra Nath Naskar @ Ramen Naskar & Ors.
-Vs-
Bhanumati Mondal & Ors.

Mr. Sandip Das,
... For the Petitioners.

These two revisional applications since are arising out of Title Appeal No. 17 of 2013 pending before the Additional District Judge, Fast Track Court –II, Diamond Harbour, District 24-Parganas (South), they are taken up for analogous hearing and disposal.

The petitioners are the respondents of the said appeal.

The Appeal Court below by the order no. 60 dated March 14, 2023 has allowed an application filed by the appellants for addition of a party, the opposite party no. 7 herein in the said appeal as respondent.

The petitioners are objecting to the said addition on the ground that the respondent so added was once the defendant no.1 in the suit but the plaintiffs/appellants expunged the said defendant from the suit, as such, is not entitled to add him again in the appeal.

Overruling the said objection, the Appeal Court below has allowed the prayer of the appellant vide impugned order no. 60 dated March 14, 2023 which is under challenge in C.O. 752 of 2024.

The Appeal Court below by the order no. 65 dated November 30, 2023 has dismissed the application of the petitioners praying recall of the said order dated March 14, 2023 which is under challenge in C.O. 754 of 2024.

The learned Trial Judge considered the added respondent a necessary party in the suit and the suit was failed for want of said necessary party.

The defect of not adding necessary party is a curable defect. The Appeal Court below has permitted the plaintiffs/appellants to cure the said defect.

The orders impugned therefore do not suffer any illegality and/or infirmity warranting interference.

C.O.752 of 2024 and C.O. 754 of 2024 are disposed of with the above observations without any order as to costs.

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.)