

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 882 of 2022

Sumat Narayan Singh Deo
Vs.
The State of West Bengal & Ors.

Mr. Uttiya Ray
Mr. Arnab Mandal
... For the petitioner

Mr. Rajarshi Basu
... For the opposite parties/State

1. Affidavit of service is filed and taken on record.
2. Challenge in this revisional application under Article 227 of the Constitution of India is the Order No.73 dated 16th April, 2021 passed by the learned Civil Judge (Junior Division), 2nd Court, Purulia in connection with Title Suit No.209 of 2007 wherein the learned Trial Judge refused the prayer for amendment under Order VI Rule 17 of the Code of Civil Procedure (in short, CPC) filed by the plaintiff/petitioner.
2. The factual background of this case is that this was a suit for declaration. The suit was filed with a prayer for declaration along with the consequential relief of permanent injunction.
3. Learned counsel appearing on behalf of the petitioner has submitted that at the time of filing of the suit, the schedule of the plaint referred to the subject land

by giving CS Plot numbers and subsequently during pendency of the suit, RS Plot numbers in respect of subject land came to the knowledge of the petitioner after disposal of a proceeding under Section 5A of the West Bengal Estates Acquisition Act, 1953 and after collecting RS Plot numbers, an amendment application was filed under Order VI Rule 17 of the CPC incorporating the RS Plots against each CS Plots mentioned in the schedule to the plaint.

4. Learned counsel appearing on behalf of the opposite parties/State has submitted that at the later stage of the proceeding, an application for amendment was filed not in compliance with the proviso to Order VI Rule 17 of the CPC. It is further submitted that nothing was averred in the application to the effect that he could not collect the information regarding RS Plots in spite of his due diligence and from that point of view, learned counsel appearing on behalf of the opposite parties supported the order impugned in this revisional application.

5. On perusal of the order impugned, I find that the learned Judge refused the prayer on the ground that the amendment was not necessary and that too will cause unnecessary delay in the proceeding of the suit.

6. Now coming to the amendment application under Order VI Rule 17 of the CPC, particularly from paragraphs 6, 7 and 15, it appears that one proceeding under Section 45A of the West Bengal Estates Acquisition Act, 1953 was

initiated and finally published record of rights was cancelled in that proceeding and for that reason no certified copy was given to the plaintiff. It is pleaded in the application that subsequent to the disposal of the proceeding, RS Plot numbers came to the knowledge of the plaintiff.

7. Therefore, it cannot be said that the subject matter of proposed amendment was in the knowledge before hand and RS Plot numbers could not be collected in spite of due diligence on the part of the plaintiff.

8. So far as the delay in filing the proposed amendment is concerned, sufficient reasons have been assigned in the application under Order VI Rule 17 of the CPC and furthermore the nature of proposed amendment does not change the nature and character of the suit in any manner, far to speak of prejudice to the opposite parties/State.

9. Given facts and circumstances, the impugned order dated 16th April, 2021 stands set aside.

10. The proposed amendment filed by the application under Order VI Rule 17 of the CPC stands allowed.

11. Learned Judge is directed to incorporate all the proposed amendment in the schedule to the plaint.

12. However, the plaintiff/petitioner is at liberty to file the amended plaint within two weeks from date.

13. Opposite parties/State is also at liberty to file additional written statement, if necessary.

14. With the aforesaid observation and direction, the revisional application stands disposed of.

15. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

16. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)