

S/L 6
12.6.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 1864 of 2024

K.I.C. Resources Limited
Vs.
Vir Bhan Goel

Mr. Rwitendra Banerjee
Mr. Aritra Roychowdhury

...for the Petitioner.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for specific performance of an agreement for sale and is directed against the order dated March 7, 2024 passed by the 4th Court of learned Civil Judge (Senior Division) at Alipore, District 24 Parganas (South) in the said suit being Title Suit No.836 of 2023.

The learned Trial Judge by the order impugned has dismissed the application filed by the petitioner praying amendment of the plaint on the ground that the proposed amendment if allowed would change the nature and character of the suit.

Mr. Banerjee, learned advocate for the petitioner submits that unless the proposed amendments are allowed, the plaintiff would not be permitted to bring evidences to demonstrate that in discharge of its obligation under the agreement, it has rehabilitated the tenants of the suit property at its expense for want of pleadings.

Heard Mr. Banerjee, perused the materials on record.

The petitioner under the agreement is obliged to rehabilitate the tenants of the suit property. The proposed amendment is for the purpose of bringing the particulars of those tenants so rehabilitated and expenses thereof incurred by

the plaintiff and also to bring the details of the tenants still occupying the suit property on record.

The petitioner by the proposed amendment has also sought to include a further prayer in the suit for a direction upon the defendant to execute and register a power of attorney in its favour.

The Paragraph 7 of the plaint discloses that in discharge of its obligation under the agreement, the plaintiff has spent money to rehabilitate the tenants of the suit property, such pleadings is sufficient to bring evidences to substantiate the said claim, as such, amendment to bring the names and other particulars of such tenants and the particulars of the tenants still in occupation of the suit property in the pleadings are not necessary.

The prayer of the petitioner for inclusion of a further prayer for a direction upon the defendant to execute and register a power of attorney in favour of the plaintiff is a misconceived prayer, inasmuch as in the event the suit succeeds, the plaintiff need not act as an agent of the defendant.

This Court though is not approving the reasons of the learned Trial Judge in rejecting the application for amendment, but the conclusion being correct, is not inclined to interfere with the order impugned.

CO 1864 of 2024 is disposed of with the above observations, there shall be no 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 of all requisite formalities.

(Biswajit Basu, J.)