

S/L 11
05.7.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 2335 of 2024

Subhas Datta & Anr.
Vs.
Maya Rani Dutta & Ors.

Mr. Ashis Kumar Chowdhury
Mr. Rajib Ghosh

...for the Petitioners.

Mr. Jayanta Samanta
Mrs. Paromita Malakar (Dutta)

...for the Opposite Party Nos.4-6.

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

The instant application under Article 227 of the
Constitution of India is at the instance of the plaintiffs in a suit
for declaration which is directed against the order dated May 4,
2024 passed by the learned Judge, 12th Bench, City Civil Court,
Calcutta in the said suit being Title Suit No.750 of 2020.

The petitioners by an application for amendment of the
plaint, had sought to incorporate the fact of discovery of the
Will of their father and mother.

The learned Trial Judge by the order impugned has
dismissed the said application holding that despite the said Will
being in the custody of the petitioners, they did not disclose the
said fact in the plaint.

The facts sought to be incorporated in the plaint by the
proposed amendment are relevant to the issue to be determined
in the suit, therefore, dismissal of the application for
amendment, particularly when the suit has not yet reached to the
stage of peremptory hearing, is not justified.

The order impugned is therefore set aside. The plaintiffs are directed to file amended plaint within a period of two weeks from date. The defendants are permitted to file additional written statement within a period of two weeks from the date of receipt of copy of the said amended plaint.

CO 2335 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 copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Biswajit Basu, J.)