

S/L 27
24.7.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 2554 of 2024
With
CAN 1 of 2024

Sri Sanjay Dutta
Vs.
Sri Tarak Nath Sen & Ors.

Mr. Krishna Pada Poddar

...for the Petitioner.

Dr. B.P. Dutta
Mr. Sayan Mukherjee

...for the Opposite Party Nos.1-3

The instant application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for declaration and permanent injunction which is directed against order dated June 11, 2024, passed by the learned Judge, VIII Bench, City Civil Court at Calcutta in the said suit being *Title Suit No.356 of 2021*.

The learned Trial Judge by the order impugned has dismissed the application filed by the plaintiff praying amendment of the plaint, *inter alia*, on the grounds that the proposed amendment is contradictory in nature and bereft of any specific date, month or year to specify the actual incident of alleged entry of the defendant no.1 along with his family members in the suit premises, besides it is vague and ambiguous.

It appears from the application for amendment that by the proposed amendment, the plaintiff has intended to incorporate some events to the plaint which happened subsequent to the filing of the suit and on the basis of such averments, has sought to incorporate a further prayer for mandatory injunction.

The vagueness and/or correctness of the proposed amendment or whether the plaintiff would be ultimately able to prove the facts sought to be incorporated in the plaint by way of amendment is no consideration in

deciding an application under Order VI Rule 17 of the Code of Civil Procedure.

The order impugned therefore is not sustainable and is accordingly set aside.

The plaintiff is required to file the amended plaint **within two weeks from date**. The defendants shall be at liberty to file additional written statement within two weeks from the date of receipt of copy of the amended plaint.

CO 2554 of 2024 is disposed of with the above observations without any order as to costs.

In view of the disposal of the revisional application, the connected application being CAN 1 of 2024 has become infructuous and is also disposed of accordingly.

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.)