

30.09.2024
Item No.15
DL, Ct.19
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 2743 of 2023

Girindra Nath Acharyya

-Vs-

Smt. Sujata Nandi & Anr.

Mr. Amit Baran Dash,
Ms. Ankana Sarkar.
.....for the petitioner.

Affidavit of service filed on behalf of the petitioner be kept with the record. None appears on behalf of the opposite parties in spite of service.

The Order No. 38 dated November 15, 2022 passed by the 2nd Court of the learned Civil Judge (Junior Division), Contai, District : Purba Medinipur in Title Suit No.204 of 2016 is under challenge in the instant application under Article 227 of the Constitution of India.

The learned Trial Judge, by the order impugned, has refused the prayer of the plaintiff for amendment of the plaint.

The plaintiff has prayed for declaration of his title over the 'Ka' Schedule property and by the proposed amendment, had prayed for inclusion of 'Ka-1' schedule property and a further prayer for a decree of partition of it.

The proposed amendment, if allowed, would affect the framing of the suit inasmuch as the prayer for declaration of title of the plaintiff in

respect of 'Ka' schedule property and partition of the 'Ka-1' schedule property cannot be conveniently dealt with, therefore, this Court is not inclined to interfere with the order impugned, however, if the plaintiff intends to amend the plaint to incorporate the prayer of partition, he is required to file an application for the said purpose with sufficient clarity.

In the event such an application is filed, the learned Trial Judge shall decide the same in accordance with law on its merits without being influenced by any of observations made in this order.

C.O. 2743 of 2023 is disposed of with the above observations without any order as to costs.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)