

01.10.2024
Item No.4, DL
Ct.19
A.J.

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

C.O. 2746 of 2023

**Dipika Bera @ Giri
-Vs-
Sachidananda Giri & Ors.**

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

Mr. Souvik Das,
Mr. Rudranil Das,
Mr. Tapas Chatterjee.
.....for the opposite party
nos. 1 & 4 to 7.

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

The petitioner is the plaintiff of the *Title Suit No. 94 of 2022*, a suit for declaration of title, the said suit is pending before the 2nd Court of learned Civil Judge (Junior Division) at Contai, District: Purba Medinipur.

The learned Trial Judge by the order impugned being Order No. 09 dated June 22, 2023 has dismissed an application filed by the petitioner for amendment of the plaint on the ground that the proposed amendment, if allowed, would take the suit beyond the limit of pecuniary jurisdiction of the said Court.

The law is well settled that *merely because an amendment may take the suit out of the limit of pecuniary jurisdiction of the Court is no ground to refuse the prayer for amendment* [See **LAKHA RAM SHARMA vs. BALAR MARKETING PRIVATE LIMITED** reported in (2008) 17 SCC 671].

The learned Trial Judge has failed to appreciate the scope of Order VII Rule 10 of the Code inasmuch as by the first part of the order impugned, has directed return of the plaint *and in the same breath*, by the latter part of the said order, has dismissed the suit itself.

The law in this regard has been extensively discussed by this Court in the case of ***SMT. MINATI SARKAR & ORS. vs. SRI SIBATOSH CHAKRABORTY*** reported in **2020 SCC OnLine Cal 497**.

The order impugned is therefore set aside; the learned Trial Judge is requested to re-consider the application for amendment afresh in accordance with law.

C.O. 2746 of 2023 is disposed of with the above observations 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 copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)