

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 2857 of 2023

Smt. Smita Panja & Anr.
Vs.
Vivekananda Panja & Ors.

Mr. Arup Krishna Das
... For the petitioners

1. This revisional application has been filed assailing the order dated 12th April, 2023 passed in connection with Title Suit No.81 of 2016 (CIS T.S. No.37/17) by the learned Civil Judge (Senior Division), 2nd Court at Asansol. By the order impugned, the learned Trial Judge rejected the prayer of an application under Order I Rule 10(2) read with Section 151 of the Code of Civil Procedure (in short, CPC).
2. The plaintiffs/petitioners herein filed an application under Order I Rule 10(2) read with Section 151 of the CPC for addition of the Secretary of the State of West Bengal, Department of Excise; the Excise Commissioner, Government of West Bengal; the Superintendent of Excise and the Deputy Excise Collector, Government of West Bengal, in the suit for partition.
3. Learned counsel appearing on behalf of the plaintiffs/petitioners has submitted that the learned Trial Judge allowed an application for amendment

under Order VI Rule 17 of the CPC whereby the plaintiffs incorporated a prayer for declaration of the permanent licence of Jemehari CS Shop granted in the name of Ira Panja as illegal and as a sequel the same was required to be set aside and cancelled and also with a prayer for permanent injunction restraining the defendant nos.12 to 16 from renewing the said licence and for that reason the persons named in the schedule to the application under Order I Rule 10(2) of the CPC are required to be made party to the suit.

4. On perusal of the application under Order VI Rule 17 of the CPC, it is found that the plaintiffs/petitioners tried to incorporate a pleading that the licence of the CS Shop was granted without complying the provision prescribed therefor in the Act and for that reason plaintiffs filed the application for addition of parties, that too in respect of the Excise Commissioner, Superintendent of Excise and the Deputy Excise Collector and also the Secretary, Department of Excise.

5. Learned Trial Judge rightly observed that necessary party is one whose presence is indispensable to the constitution of the suit, against whom the relief is sought and without whom no effective order can be passed.

6. From the record, it appears that effort was made by the plaintiffs to prove that granting of licence was

made without complying the provisions of the Excise Act and Rules.

7. In my opinion, in a partition suit among the co-sharers, there is hardly any scope to allow any government officials to be a party to the suit with a view to proving the contention of any of the parties to the partition suit.

8. Regard being had to the above, I do not find any reason to interfere with the order impugned in this revisional application.

9. Accordingly, the revisional application, being CO 2857 of 2023, stands summarily dismissed.

10. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

11. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)