

24.01.2024

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Ct. No.7

C.O. 3355 of 2023
Manturam Naskar & Ors.
Vs.
Dipak Naskar & Ors.

Mr. Malay Bhattacharya
Mr. Subhrojyoti Ghosh.....for the petitioners

Mr. Mrinal Kanti Ghosh
Mr. Chandra Nath Sarkar
Mr. Sounak Mondal.....for the opposite parties

1. This application under Article 227 of the Constitution of India is at the instance of a preemptor challenging order no. 103 dated July 31, 2023 passed by the learned Civil Judge (Junior Division), 3rd Court, Baruipur in Misc. (Preemption) Case No. 10 of 2007.
2. By the impugned order, the application for amendment of the written objection was allowed subject to payment of cost of Rs. 3,000/-.
3. Learned advocate appearing for the petitioners submits that the opposite parties herein were not at all vigilant and filed this application for amendment at a belated stage. He further submits that the opposite parties, in spite of being aware of that fact did not take out the application for amendment prior to commencement of trial.
4. Mr. Sarkar, learned advocate appearing for the opposite parties submits that the petitioners herein have

accepted the cost, which was directed to be paid by the impugned order.

5. Heard the learned advocates for the parties and perused the materials placed.
6. After going through the schedule of the amendment of the written objection, this Court finds that the proposed amendment is necessary for the purpose of deciding the real controversy between the parties. The learned trial Judge, after noting the well-settled principles for deciding an application for amendment of a written objection observed that the proposed amendment, if allowed, will not change the nature and character of the Misc. case. That apart, the petitioners have already accepted the cost, which was directed to be paid by the impugned order.
7. For the aforesaid reasons, this Court is not inclined to interfere with the impugned order.
8. C.O. 3355 of 2023 accordingly, stands dismissed.
9. Learned Civil Judge (Junior Division), 3rd Court, Baruipur is requested to dispose of the Misc. (Preemption) Case No. 10 of 2007 as expeditiously as possible without granting any unnecessary adjournment to either of the parties.
10. No costs.
11. Urgent photostat certified copy of this order, if applied for, be given to the parties expeditiously upon usual formalities.

(HIRANMAY BHATTACHARYYA, J.)