

26.02.2024
Item No.15
RP
Ct. No.7

CO 3373 of 2023

Smt. Nilakshi Bose
Vs.
Sri Susanta Roy & Anr.

Mr. Pradip Kumar Majumder
Mr. Birendra Nath Manna
.... For the Petitioner
Mr. Kushal Chatterjee
Mr. Oishik Chatterjee
.... For the State

This civil order is at the instance of the plaintiff and is directed against the order dated 20th July, 2023 passed by the learned Civil Judge, Junior Division, Bidhannagar in Title Suit No.177 of 2013. By the impugned order the application filed by the petitioner herein under Order 6 Rule 17 of the Civil Procedure Code for amendment of the plaint stood rejected.

Learned advocate appearing for the petitioner submits that the trial of the instant suit has not yet commenced and, therefore, the learned trial Judge ought not to have rejected the application for amendment by invoking the proviso to Order 6 Rule 17 of the Civil Procedure Code. He submits that the plaintiff due to inadvertence could not incorporate certain facts, which are necessary for the purpose of deciding the real controversies between the parties, and, therefore, the proposed amendment ought to have been allowed. He further submits that the defendants did not file any written objection to the application for amendment and, therefore, the learned trial Judge ought not to have rejected the application for amendment. He also submits that the defendants cannot be said to suffer any prejudice

if the proposed amendment is allowed as he would get an opportunity to controvert such amended pleadings by filing additional written statement and by giving evidence to disprove the fact if the same is allowed to be incorporated by way of amendment.

Mr. Chatterjee, learned advocate appearing for the opposite party submits that the proposed amendments are not necessary for the purpose of deciding the real controversies between the parties.

This Court finds that the learned trial Judge recorded that the issues have been framed on 15th November, 2018 and PW 1 has already been partly examined in chief and at this stage the application for amendment of plaint was filed.

After going through the amendment application this Court finds that the plaintiff wanted to introduce certain facts relating to some trouble allegedly created by the defendant no.1 with regard to shifting of the electric meter. It further appears that the plaintiff wanted to introduce certain facts relating to a complaint lodged before the police authority alleging that the defendant no.1 created pressure upon his father for execution of the deed of gift in regard to the suit property in his favour. It was also alleged that the plaintiff had to maintain the suit property with her mother and the defendant no.1 did not take any care with regard to maintenance of the suit property out of his own fund.

After considering the scope of the suit this Court is of the considered view that the proposed amendments are not at all necessary for the purpose of deciding the controversies between the parties.

The learned trial Judge after noting that the suit is one for declaration as to the share of the plaintiff in the property rightly observed that the facts sought to be incorporated has no connection with the relief

claimed in the plaint. The impugned order does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India.

For the reasons as aforesaid, CO 3373 of 2023 stands dismissed. Since this suit is of the year 2013 and the parties are interested in expeditious disposal of the title suit, the learned Civil Judge, Junior Division, Bidhannagar is requested to dispose of the suit expeditiously without granting any unnecessary adjournments to either of the parties.

(HIRANMAY BHATTACHARYYA, J.)