

20.11.2024
Ct. No. 22
Sl. No.140
KB

**In The High Court at Calcutta
Civil Revisional Jurisdiction
Appellate Side**

CO 3674 of 2022

**Rabindra Nath Sarkar
-versus-
Subhas Chandra Sarkar & Ors.**

Mr. Shibaji Kumar Das
Mr. Dipendu Sarkar
Ms. Deblina De

... For the petitioner.

Mrs. Deblina Lahiri
Mr. Mrinmoy Chatterjee

... For the opposite parties.

1. This revisional application has been filed assailing the Order No.42 dated 19th November, 2022 passed by Learned Civil Judge (Senior Division), Kalyani, District-Nadia wherein learned Judge refused to entertain an application under Order 11 Rule 1 of the Code of Civil Procedure (hereinafter referred to as CPC) on the ground that the sole defendant/opposite party herein already disclosed the name of the persons who are necessary parties to the suit.

2. It was also recorded by the learned Judge that copy of the written statement was served upon the plaintiff/petitioner herein on 31st March, 2022 and the plaintiff neglected to take steps to remove such defects.

3. Considering the stage of evidence, learned Judge refused the prayer of the petitioner.

4. Learned counsel appearing on behalf of the petitioner submitted that in the written statement particularly in paragraph 15 (f) it was disclosed that a portion of subject land was occupying by legal heirs of late Santosh Mondal and Panchu Gopal Mondal of the suit village but the names of those legal heirs have not been disclosed.

5. Accordingly, learned counsel appearing on behalf of the petitioner has submitted that necessary direction be given to the opposite parties to inform the whereabouts of those legal heirs including their names.

6. In opposition to that, learned counsel appearing on behalf of the opposite party has submitted that names of all necessary parties were disclosed except the legal heirs of late Santosh Mondal and Panchu Gopal Mondal and had there been any knowledge about their whereabouts defendant surely would have disclosed the information.

7. Learned counsel appearing on behalf of the opposite party has further drawn my attention to the copy of the written statement annexed with this revisional application and submitted that he has supplied all the names and residence of the persons who are necessary parties to the suit.

8. Learned counsel appearing on behalf of the petitioner has submitted that necessary direction be

given to the opposite party only to furnish the information regarding legal heirs of Late Santosh Mondal and Panchu Gopal Mondal.

9. After considering the rival contention on behalf of the parties, it has come to my notice that the only issue remains between the parties, is about information regarding legal heirs of Late Santosh Mondal and Panchu Gopal Mondal and admittedly that information has not been supplied in reply to the interrogations under Order 11 Rule 1 of the CPC.

10. Learned Judge also ignored the averments of the written statement particularly in paragraph 15(f) of the written statement.

11. In the aforesaid view of the matter, the order impugned stands set aside directing the opposite party to file a reply before the Trial Court regarding the legal heirs of Late Santosh Mondal and Panchu Gopal Mondal mentioned in paragraph 15(f) of the written statement subject to availability of the details within fifteen days from the date of communication of this order.

12. With the aforesaid observations, the revisional application stands disposed of.

13. Interim order, if any, stands vacated.

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

17. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Bibhas Ranjan De, J.)