

OD-7

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/10/2024
WITH
WPO/1406/2023

GULMARG ESTATES PVT. LTD.
VS
SANTANU SARKAR AND ORS.

BEFORE :
THE HON'BLE JUSTICE JOYMALYA BAGCHI
And
THE HON'BLE JUSTICE GAURANG KANTH
Date : 4th September, 2024.

Mr. A. Banerjee, Adv.; Ms. A. Saha, Adv.; Mr. A.K. Mukherjee, Adv.; Mr. S.
Prasad, Adv.; Mr. A. Kar, Adv.
Mr. D. Dinda, Adv.
Ms. T. Samanta, Adv.

The Court :- Mr. Banerjee submits learned Judge erred in law in allowing the amendments to the writ petition and the respondent/writ petitioner, through the amendments, was permitted to take a stance contrary to an admission made in an earlier proceeding and seek reliefs which are consistent with earlier orders passed by the Court.

As per Rule 53 of the Rules of the High Court relating to applications under Article 226 of the Constitution of India, provisions of the Civil Procedure Code are applicable to such applications as far as practicable. However, powers of the constitutional court to grant reliefs is much wider than in a civil

suit. It is always open to the writ court to mould reliefs in the interest of justice. Hence, amendment to the writ petition by adding further reliefs do not operate to the prejudice of the appellant.

The other issue, i.e. the amendment runs counter to earlier admissions may be adjudicated during the final hearing of the writ petition.

Accordingly, we are not inclined to interfere with the order impugned. The appeal is dismissed.

Affidavit-in-opposition to the writ petition may be filed within two weeks from date. Reply thereto, if any, may be filed within one week thereafter.

Since we have not gone into the merits of the appeal, all points in the writ petition are kept open.

(GAURANG KANTH, J.)

(JOYMALYA BAGCHI, J.)

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