

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 37 of 2023

Mrs. A.M. Cohen
Vs.
Salehjee Musafirkhana Wakf Estate & Ors.

Mr. Golam Mastafa
Mr. Tarasankar Samanta
... For the petitioner

Mr. Md. Farhaduddin, Sr. Advocate
Ms. Shamama Nasrin
Mr. Shabbir Yasdani
Mr. Sk. Hasrat Hasan
... For the opposite parties

1. Affidavit of service filed in Court today is taken on record.
2. Challenge in this revisional application is the order dated 21st November, 2022 passed in connection with Ejectment Suit No.427 of 2012 wherein the learned Judge, 6th Bench, Presidency Small Causes Court, Calcutta, allowed an application for amendment under Order VI Rule 17 of the Code of Civil Procedure, 1908.
3. Learned counsel appearing on behalf of the petitioner/revisionist has submitted before this Court that the proposed amendment shall change the nature and character of the suit which was filed by the plaintiff/opposite party no.1 herein claiming the same as Auqaf property.

4. Learned counsel appearing on behalf of the opposite parties has submitted that the proposed amendment does not make any change in the nature of the suit as the same was filed for incorporation in the plaint pursuant to the order of the Hon'ble Court on 13th September, 1944.

5. Learned counsel appearing on behalf of the petitioner has further submitted that the factum of administration of the property was in the knowledge of the plaintiff/opposite party no.1 when the suit was filed in the year 2012 but the amendment application was filed in the year 2017.

6. However, I have perused the order impugned where the learned Judge recorded his finding that the proposed amendment did not make any change in the nature of the suit and the amendment is required for proper adjudication of the suit. It was further recorded that the amendment application was filed before commencement of the trial. None of the learned counsel appearing on behalf of the parties to this revisional application has disputed regarding commencement of trial.

7. On careful scrutiny of the proposed amendment, I find that the order dated 13th September, 1944 passed by the Hon'ble High Court whereby a Scheme was framed for administration of Auqaf estate and by that Scheme, Official Trustee of Bengal was appointed as sole-trustee of the Auqaf estate. The entire proposed amendment

relates to an order of the Hon'ble Court and that too prayer for proposed amendment was filed before commencement of trial of the suit.

8. On that point of view, the learned Judge rightly observed that the proposed amendment is necessary for proper adjudication of the suit due to which defendants will not be prejudiced.

9. In the aforesaid view of the matter, I do not find any irregularity or infirmity in the order assailed in this revisional application to exercise jurisdiction under Article 227 of the Constitution of India.

10. As a sequel, the revisional application stands dismissed.

11. Considering the long pendency of the suit, the learned Trial Judge is requested to dispose of the suit as expeditiously as possible, without granting any unnecessary adjournment to either of the parties to the suit.

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

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

(Bibhas Ranjan De, J.)