

Item No. 03

Ct 22

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17.01. 2025

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 90 of 2023

**Nilima Basu
Vs
Smt. Anjana Dutta**

Mr. Asit Mumar Bhattacharya.
... for the petitioner.

Mr. Souritra Ganguly,
Mr. Aniruddha Sinha. ... for the opposite party.

1. Supplementary affidavit in opposition filed by the opposite party be taken on record.
2. Both the learned counsel appearing on behalf of the parties to this revisional application are present.
3. Challenge is the order dated 13.12.2022 passed in connection with Title Suit No. 53 of 2021, wherein Learned Civil Judge (Junior Division), Bidhannagar, North 24-Parganas refused the prayer for amendment of the boundary of the property to the schedule of the plaint under Order VI Rule 17 of the Code of Civil Procedure. The suit was filed with a prayer of decree for declaration as well as permanent injunction restraining the defendant and their men and agents from taking forceful possession of the subject property in

question.

4. Learned counsel appearing on behalf of the petitioner has submitted that amendment petition was filed with a prayer to make necessary modification of the boundary in respect of 2 cottahs of land situated at Mouza- Krishnapur, R.S No. Dag No. 4680 under R.S. Khatian No.1597 measuring an area of 1 cottah 4 chittacks and R.S. Dag No. 4429 under R.S Khatian No. 1490 measuring an area of 12 chittacks within Nabadiganta Police Station, South 24-Parganas.
5. Learned counsel appearing on behalf of the petitioner has further contended subsequently it was detected that boundary of the land to the schedule to the plaint was not correct and that is why the amendment application has been filed just describing the correct boundary of the subject land.
6. Learned counsel appearing on behalf of the opposite party has submitted that the petitioner/plaintiff obtained an injunction order from the Trial Court suppressing the actual boundary of the land. It is submitted that boundary of the land was well within the knowledge of the petitioner/plaintiff at the time of filing the suit and, therefore, petitioner/plaintiff has not come before this Court with clean hands.

7. Both the learned counsel appearing on behalf of the parties to this revisional application are ad idem of the act that trial of the suit has not commenced yet.
8. If that be position, proviso to Order VI Rule 17 of the Code of Civil Procedure has no role to play in the dispute at hand. From the record it appears that Learned Trial Judge promulgated an order of injunction in respect of subject land regarding two particular plots though boundary of the land was not correct.
9. This is a suit for declaration and permanent injunction in respect of subject land mentioned above. The correct boundary of the land, in my opinion, is required to be disclosed for the just decision of the lis.
10. Considering the stage of the suit and nature of the amendment of land, I find it justified to interfere with the order passed by the learned Trial Judge dated 13.12.2022 in connection with Title Suit No. 53 of 2021 as the nature of amendment does not change the subject land of the suit even.
11. As a sequel, the impugned order dated 13.12.2022 Learned Civil Judge (Junior Division), Bidhannagar, North 24-Parganas stands set aside.
12. Petitioner/plaintiff is directed to file amended plaint within seven days from the date of

communication of this order before the Trial Court.

13. With this observation, the revisional application stands disposed of.

14. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

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

(Bibhas Ranjan De, J.)