

10.06.2025

Mithun

List -D/L

Sl. No. 36.

Ct. No. 06.

CO 152 of 2025

Gouri Barui & Ors.

-Vs.-

Mahatirtham Society, Purbachal Main Road

Mr. Partha Pratim Roy,
Mr. Uday Narayan Betal,
Mr. Bhaskar Hutait

...for the petitioner

Mr. Dibyajyoti Raha,
Mr. Tapan Kumar Manna

...for the defendant/opposite party

The application under Article 227 of the Constitution of India is at the instance of the plaintiffs and is directed against an order being order No.16 dated 03.12.2024 passed by the learned Civil Judge (Junior Division), 2nd Court, Alipore in Title Suit No.119 of 2024. By the order impugned the application filed by the petitioner herein for amendment of the plaint stood rejected.

The petitioners filed a suit for declaration of title and permanent injunction. In such a suit, the opposite party no.1 filed a written statement along with a counter claim praying for declaration of title on the basis of a deed of sale executed by the predecessor-in-interest of the petitioners which was registered in the office of the District Registrar, Alipore in book No.1, Volume No.33 at pages 284 to 287 being no.919 for the year of 1980. Thereafter, the petitioners filed an application for

amendment of plaint in order to challenge the execution of the deed no.919 of the year 1980 by virtue of which the defendant is claiming title in respect of the suit property. The learned Trial Judge rejected such application only on the ground that the plaintiffs can incorporate the proposed amendment by filing a written statement to the counter claim or rejoinder to the plaint.

The reasons for rejecting the application for amendment of plaint cannot be supported by this Court. It is not in dispute that the existence of the deed was brought to the notice of the plaintiffs in the counter claim. Immediately thereafter, the petitioners sought to incorporate the fact that the predecessor-in-interest of the plaintiffs did not execute the said deed and the same is nothing but a fake, forged and manufactured one. The proposed amendments, in the considered view of this Court, is necessary for the purpose of deciding the real controversies between the parties in the said suit.

For the reasons as aforesaid, I am inclined to interfere with the order impugned.

Accordingly, C.O.152 of 2025 stands allowed.

The impugned order dated 3rd December, 2024 stands set aside.

The application for amendment of plaint stands allowed.

The petitioners are directed to file the amended plaint after serving a copy of the same upon the learned Advocate for the defendant before the learned Trial Judge within a period of two weeks from the receipt of the server copy of this order.

The defendants would be at liberty to file an additional written statement within a period of two weeks from the date of service of the copy of the amended plaint.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)