

04.03.2025
Sl. No. M/L48
g.b.
Court No.06
265719

CO 444 of 2025

Sri Uttam Mondal & Ors.
-Vs-
Bappa Mete & Ors.

Mr. Abhilash Chatterjee
Mr. Saikat Dey
.....For the Petitioner
Mr. Kushal Chatterjee
Mr. Subhojit Mukherjee
.....For the Opposite Parties

This application under Article 227 of the Constitution of India is at the instance of the pre-emptee in a proceeding under Sections 8 and 9 of the West Bengal Land Reforms Act being L. R. Miscellaneous Case No. 5 of 2023 and is directed against an order being order no. 22 dated 6th January, 2025 passed by the learned Civil Judge (Jr. Division) at Amta, Howrah.

By the order impugned the prayer of the opposite parties herein for amendment of the application under Sections 8 and 9 of the West Bengal Land Reforms Act stood allowed.

The learned advocate for the petitioner submits that the application for amendment was captioned as one under Section 151 of the Code of Civil Procedure. He submits that there is a specific provision in the Code of Civil Procedure under Order VI Rule 17 for amendment of pleadings. Therefore, he submits that an application

under Section 151 of the Code of Civil Procedure for amendment of pleadings is not maintainable in law. In support of such contention he places reliance upon a decision of the Hon'ble Supreme Court in the case of **K. K. Velusamy Vs. N. Palanisamy reported at (2011) 11 SCC 275.**

The learned advocate for the opposite parties submits that the proposed amendments are necessary for the purpose of deciding the real controversy between the parties in the miscellaneous case.

After going through the schedule of application for amendment this court finds that the proposed amendments are necessary for the purpose of deciding the real controversy between the parties in the miscellaneous case. That apart the amendments sought for will not change the nature and character of the proceedings. Though there is no quarrel to the proposition of law laid down by the Hon'ble Supreme Court in K. K. Velusamy (supra) that the inherent powers of the court being complementary to the powers specifically conferred, a court is free to exercise them for the purposes mentioned in Section 151 of the Code when the matter is not covered by any specific provision in the Code and the exercise of those powers would not in any way be in conflict with what has been expressly provided in the Code or be against the intention of the legislature. It is equally well settled that the caption of an application is not

material and the substance of the application is to be looked into.

After going through the said application this court finds that in substance the opposite parties herein had prayed for amendment of pleadings.

To the mind of this Court, the learned Trial Judge applied the correct legal tests while allowing the amendment.

In view thereof, this court is not inclined to interfere with the order impugned. Accordingly, CO 444 of 2025 stands dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties after compliance of all necessary formalities.

(Hiranmay Bhattacharyya, J.)