

February 20, 2025
Sl. No.10
Court No.6
s.biswas

CO 570 of 2025

Smt. Mira Rani Kanp
vs.
Pratap Samanta and others

Mr. Amitava Paine
Mr. Partha Pratim Mukhopadhyay
Mr. Viren Kr. Tripathi

... for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against the Order No.31 dated 7th December, 2024 passed by the learned Civil Judge (Junior Division) at Haldia, Purba Medinipur, in Title Suit No.287 of 2018.

By the order impugned, the application under Order 6 Rule 17 praying for amendment of plaint was allowed in part.

Being aggrieved against such order, the petitioner has approached this court.

Mr. Paine, learned advocate appearing for the petitioner, submits that the nature and character of the suit will be changed if the proposed amendment is allowed.

It appears from the application for amendment that the plaintiffs have sought to challenge the gift deeds alleging that Mira Rani Kanp had no right to execute such deeds.

After going through the amendment of plaint, this court is not inclined to accept the argument of

Mr. Paine, learned advocate for the petitioner, that if the proposed amendment is allowed, the nature and character of the suit will be changed because even after allowing the application for amendment the suit will still remain to be a suit for declaration and permanent injunction.

Mr. Paine placed reliance upon a decision of the Co-ordinate Bench of this court in the case of *Bedana Sur vs. Nirod Chandra Seal* reported in 2013 (4) CHN (Cal) 594, in support of his contention that the application for amendment cannot be allowed.

In *Bedana Sur* (supra), the schedule of the suit property was sought to be changed by way of amendment. On such facts it was held that the proposed amendment will change the basic structure of the plaint.

The said decision cannot come to the aid of the petitioner as it has been already held that the basic structure of the plaint will not be changed if the proposed amendment is allowed.

It appears that the petitioner was not given any liberty to file additional written statement. The petitioner will be at liberty to file additional written statement after the amendment of plaint is filed by the plaintiffs/opposite parties within the time limit that may be fixed by the learned trial Judge.

With above observation, CO 570 of 2025 stands disposed of.

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

(Hiranmay Bhattacharyya, J.)