

Court No. 6
(265719)

07.03.2025
(AD 36)
(S. Banerjee)

CO 786 of 2025

Surendranath Samanta & Anr.
Vs.
Jayanti Mallik & Ors.

Mr. Subham Majumder

...for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against an order being no. 98 dated December 4, 2024 passed by the learned Civil Judge (Jr. Division) at Haldia, purba Medinipur in Title Suit No. 172 of 2010. By the order impugned, the application under Order 6 Rule 17 of the Code of Civil Procedure, stood allowed.

Learned advocate appearing for the petitioners submits that the application for amendment of the plaint was filed after the commencement of trial.

After going through the application for amendment this Court finds that the plaintiff/opposite party herein has sought to incorporate the fact that Bhagabati Nayak obtained 5 decimals of land in Dag No. 4 by virtue of sale deed being no. 940/1966.

It is not in dispute that the said deed was produced by the defendants in course of their evidence. In view thereof, this Court is of the considered view that the proviso to Order 6 Rule 17 CPC stands satisfied in the case in hand. Since the defendants are relying upon the sale deed being no. 940/1966, this Court is of the considered view that the proposed amendments in respect of the said deed is necessary for the purpose of deciding the real controversy between the parties. Since the defendants have produced the said deed during the evidence, the defendants/petitioner herein cannot be said to be prejudiced by way of the proposed amendments. That apart, the proposed amendments will not change the nature and character of the suit.

For such reasons, this Court is of the considered view that the learned trial Judge was right in allowing the application for amendment of the plaint.

By the order impugned the petitioners were also given liberty to file the additional written statement. Thus, interest of the petitioners has been sufficiently protected by the order impugned.

For such reason, this Court is not inclined to interfere with the order impugned. Accordingly, CO 786 of 2025 stands dismissed.

The learned trial Judge is requested to dispose of the suit as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

(Hiranmay Bhattacharyya, J.)