

Court No. 6
(265719)

05.05.2025
(A 20)
(S. Banerjee)

CO 1067 of 2025

Alok Kumar Das & Ors.
Vs.
Joya Sinha Roy & Ors.

Mr. Raghunath Chakraborty
Mr. Mehboob Ahmed

...for the petitioners

Mr. Debottam Das
Mr. Surajit Basu
Mr. Udayan Chakraborty
Ms. Sanjukta Bhattacharyya

...for the caveator

This application under Article 227 of the Constitution of India is at the instance of the added defendants and is directed against Order no. 220 dated February 20, 2025 passed by the learned Civil Judge (Jr. Division), 3rd Court at Alipore, South 24 Parganas in Title Suit No. 139 of 1994. By the order impugned the application for amendment of plaint was allowed.

The opposite party nos. 1 to 5 herein filed a suit praying for a decree declaring that the defendant no. 1 has got no right or interest to encumber the first floor of the suit property in any manner whatsoever taking the advantage of the old age and ailing health of the defendant no. 2 and for permanent injunction. The suit was filed in the year 1994. At the stage of evidence of the defendant witness no. 1, the

plaintiffs/opposite parties herein filed an application under Order 6 Rule 17 of the Civil Procedure Code praying for amendment of the plaint.

Upon going through the said application this court finds that the plaintiffs have not stated the reasons for which such an application could not have been filed prior to the commencement of trial.

From the schedule of amendment this court finds that the plaintiffs sought to incorporate 27 paragraphs in the original plaint. That apart, the plaintiffs also sought to claim additional four reliefs by way of amendment.

This court further finds that the plaintiffs are now seeking to challenge a settlement deed of the year 1992 by filing this application under Order 6 Rule 17 CPC. It was further recorded in the order impugned that the plaintiff has failed to state his due diligence. Even after recording such finding, the learned trial judge allowed such application.

The order contains contradictory reasons as would be evident from a bare reading of the said order. That apart, the learned trial judge did not specifically assign the reasons as to why the proposed amendments are necessary for the purpose of deciding the real questions in controversy between the parties. Whether a challenge to the deed of 1992 can be allowed in the year 2022 by filing an

application for amendment has also not been considered by the learned trial judge while allowing the prayer for amendment. For all the aforesaid reasons this court is inclined to interfere with the order impugned.

Accordingly, the order impugned stands set aside. The application under Order 6 Rule 17 CPC is restored to the file of the learned trial judge.

The learned trial judge is requested to consider the said application afresh and dispose of the same by passing a reasoned order after giving an opportunity of hearing to the respective parties.

Considering the fact that the suit is of the year 1994, the learned trial judge is requested to dispose of the application for amendment as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

(Hiranmay Bhattacharyya, J.)