

Sl.244
14.07.2025
Court No.6
BP

C.O. 944 of 2024

Satyajit Roy
-versus-
Asit Roy @ Asit Kumar Roy & Ors.

Mr. Swarup Banerjee
Mr. Sajal Ghosh
Mr. Subham Biswas
..for the petitioner

Mr. Prbal Kumar Mukherjee. Sr. Advocate
Ms. Shebatee Datta
..for the opposite
party nos. 1 to 6

Mr. Susanta Pal
Mr. P. Basu
Ms. M. Chakraborty
..for the opposite
party no.7

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order being no. 32 dated 8th February, 2024 passed by the learned Civil Judge (Junior Division), Additional Court, Asansol, Paschim Bardhaman in Title Suit No. 25 of 2020.

By the order impugned the application under Order 6 Rule 17 of the Code of Civil Procedure filed by the petitioner herein stood rejected.

The petitioner filed a suit for declaration of title and for permanent injunction restraining the defendant nos. 1 to 6 from getting any benefit of employment from the defendant no.7 as per the sale deed being no.9188/2018 as the same is a fictitious and fraudulent one. The petitioner

filed an application under Order 6 Rule 17 of the Code of Civil Procedure for incorporating the numbers of six plots in paragraph 9 of the plaint of the said suit.

The learned advocate appearing for the petitioner submits that the trial of the suit is yet to commence and, therefore, the proviso to Order 6 Rule 17 of the Code could not have been invoked by the learned trial judge. He further submits that the proposed amendments are necessary for the purpose of deciding the real controversies between the parties and an application for amendment cannot be rejected solely on the ground of delay. He further submits that the opposite parties herein would not be prejudiced in any manner if the proposed amendment is allowed as the trial is yet to commence.

Mr. Mukherjee, learned senior advocate appearing for the opposite parties submits that the scope of the instant suit is with regard to two plot numbers which form the subject matter of a deed of 1943. He further submits that the petitioner approached the revenue authorities for the purpose of mutating their names in the revenue record and such prayer stood rejected. He further submits that the petitioner carried the matter in appeal which also resulted in dismissal.

Heard the learned advocate for the opposite party no.7 on such submission.

After going through the plaint this Court finds that it is the specific case of the petitioner that the predecessor of

the defendant no.1 to 6 transferred two plots of land being plot nos. 637 and 643 in mouza Amdiha under police station Barabani in the district of Paschim Bardhaman in favour of the predecessor of the plaintiff by way of a registered deed of Kobala for the year 1943 and since then the plaintiff and thereafter his legal heir was/are in peaceful possession over the suit property. The petitioner sought to incorporate 6 L.R. plot number by way of amendment. However, the relevance of the L.R. plot numbers with regard to the subject matter of the suit has not been stated in the application for amendment. In the absence of any connection between the plot numbers 637 and 643 and the plot number sought to be added by the proposed amendment, this Court is of the considered view that the proposed amendments cannot be said to be necessary for the purpose of deciding the real controversies between the parties in the suit. It is well settled that an application for amendment should be allowed if the proposed amendments are necessary for the purpose of deciding the real controversies between the parties. Since the Court has already held that the proposed amendments are not necessary for the purpose of deciding the real controversies between the parties, this Court is not inclined to interfere with the order impugned.

Accordingly, C.O. 944 of 2024 stands dismissed.

There shall be, however, no order as to costs.

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

(Hiranmay Bhattacharyya, J.)