

14.11.2025
Ct. No. 30
SL No. **48**
MKP

CO 1018 of 2023

Kumaresh Mukherjee And Ors

Vs.

Samaresh Mukherjee & Ors

Mr. Saurabh Guhathakurata
Mr. Surajit Dutta
Mr. Abhratanu Sarkar
Mr. Aftab Munshi

.....for the Petitioner

1. The revisional application has been preferred challenging an order no.98 dated 20.01.2023 passed by the Learned Civil Judge (Sr.Division), 2nd Court, Asansol in Title Suit No. 75/2016 (Sri Kumaresh Mukherjee & Ors. Versus Sri Samaresh Mukherjee & 02 Ors.) thereby rejecting a petition under Order 6 Rule 17 of the Civil Procedure Code filed by the petitioner herein.
2. Vide order dated under challenge, the Trial Court has rejected the plaintiff's application under Order 6 Rule 17 of the C.P.C.

3. In spite of due service, none of the opposite parties have appeared.

4. It appears from the application under Order 6, Rule 17 of the C.P.C., that the petitioner had sought to bring in only the area of land in respect of the schedule property.

5. The **amendment** prayed for is as follows:

“To add the word “AREA OF LAND 6 DECIMAL” appearing after the word “SABEK DAG NO.2241” and before the word “HOLDING NO.550(34)” in Line No.2 of the schedule of the plaint of the said suit.”

6. **The schedule of the suit plot** is as follows:

“Within Dist.Burdwan, P.S. Hirapur Mouza Narsinghbandh, R.S.Plot No. 4244, J.L.No.21, Sabek Dag 2241, Holding No.550(34) under Ward No.42(old)81(New)A.M.C.area thereunder with all building and land thereon.”

7. On perusal of the schedule to the plaint and the nature of amendment sought for, it is clear that due to inadvertence, the area of the plot has been left out. The “area” of the land is to be brought in, by way of amendment for

proper adjudication of the suit, as the said description has been left out due to inadvertence.

8. The prayer for amendment is to be allowed more so as the same will not cause prejudice to the defendant/ opposite parties who shall have the opportunity to produce evidence against the said facts to be brought on record. Trial in this case has also not commenced.
9. It appears that the Learned Trial Court thus erroneously rejected the said application under Order 6, Rule 17 C.P.C. on the finding that the same may change the nature and character of the suit property.
10. In view of the fact that the “area” of land is a part of the suit property, the same cannot change the nature and character of the suit property.
11. Accordingly, the order under challenge not being in accordance with law is **set aside**.
12. The amendment as prayed for is allowed. Amendment petition be made part of the plaint.

13. The petitioner/plaintiff is permitted to amend the plaint accordingly and file an amendment plaint before the Trial Court within 15 days from the date of this order.
14. The Trial Court shall permit the defendant to file additional written statement, if any, within 7 days thereafter and then proceed to dispose of the suit in accordance with law expeditiously.
15. The revisional application is **disposed of**.
16. Applications, if any, connected thereto stand disposed of consequently.
17. Interim order, if any, stands vacated.
18. Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]