

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 1054 of 2023

Allarakha Sk. & Ors.
Vs.
Asraful Alam

Mr. Abdus Salam
... For the petitioners

1. This revisional application has been filed assailing the order dated 4th February, 2023 passed in connection with Title Suit No.47 of 2021 whereby the learned Civil Judge (Junior Division), Kandi, Murshidabad, allowed one amendment application under Order VI Rule 17 of the Code of Civil Procedure.

2. Learned counsel appearing on behalf of the petitioners has drawn my attention to the amendment application as well as the plaint annexed with this revisional application and submits that factum of acquiring ownership over the property was within the knowledge of the plaintiff/opposite party herein prior to filing of the application but that was not delineated in the plaint at the time of filing before the Court having jurisdiction.

3. It is not disputed that the amendment application was filed before commencement of the trial.

4. On careful perusal of the plaint, I find that in paragraph 1 of the same, plaintiff/opposite party herein averred that he is the owner and in possession of the

subject property and record of rights stands in his name. Now, by filing the proposed amendment, the plaintiff/opposite party herein is trying to incorporate the mode of acquiring the property, i.e., by way of patta only.

5. Considering the background of this case, I am in full agreement with the learned Trial Judge that the proposed amendment does not change the nature and character of the suit for declaration and permanent injunction. In fact, the plaintiff/opposite party herein claimed title through the record of rights and by the proposed amendment, the plaintiff/opposite party herein is inclined to incorporate the factum of mode of acquiring the property only, that too, before commencement of trial.

6. In the aforesaid view of the matter, I do not find any infirmity or illegality in the order impugned to exercise the jurisdiction under Article 227 of the Constitution of India.

7. With the aforesaid observation, the revisional application stands dismissed.

8. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

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

(Bibhas Ranjan De, J.)