

22-04-2025
Item no.64
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction

CO No.1257 of 2025
Ranadhir Khara @ Khanra & Ors.
-vs-
Ramendra Nath Khara & Ors.

Mr. R.N. Dutta
Mr. Sibasis Ghosh
Mr. Arkoday Mukherjee ...for the petitioners

This application under Article 227 of the Constitution is at the instance of defendants no.2-4 in a suit for partition and is directed against an order dated February 10, 2025 passed by the learned Civil Judge (Senior Division), 6th Court at Alipore in Title Suit No.52 of 2004.

By the impugned order, the prayer for leave to file additional written statement under Order VIII Rule 9 of the Code of Civil Procedure, 1908 stood rejected.

Mr Dutta, learned advocate assisted by learned advocate Mr Ghosh appearing for the petitioner, submits that the facts sought to be introduced by way of additional written statement are necessary for the purpose of adjudication of the disputes between the parties in the suit for partition. He further submits that during the pendency of the said suit, the plaintiff transferred a portion of the suit property in favour of his wife and, therefore, the wife of the plaintiff is a necessary party in the said suit. He also submits that the suit is bad for non-joinder of the necessary party in a suit for partition.

After going through the materials on record, this

court finds that the plaint was allowed to be amended by this court vide order dated December 22, 2017 in CO No.2092 of 2016 and the petitioners herein were afforded an opportunity to file the additional written statement. The petitioners herein duly filed their additional written statement on January 8, 2015. The learned trial judge after going through the averments made in the application under Order VIII Rule 9 CPC returned a factual finding that the defendants no.2-4/petitioners herein are trying to re-agitate the similar claim by way of an application under Order VIII Rule 9 CPC which they had already mentioned in the additional written statement filed on January 8, 2018. The learned advocate appearing for the petitioners could not point out any infirmity in such factual finding recorded by the learned trial judge.

For such reasons, this Court is not inclined to interfere with the impugned order dated February 10, 2025. CO No.1257 of 2025 is thus dismissed.

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

Certified copy of this order, if applied for, shall be made available to the parties.

[Hiranmay Bhattacharyya, J]

