

22-05-2025
Item no.52
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction

CO No.1322 of 2025
Rukiya Bibi & Anr.
-vs-
Mirza Julfar & Ors.

Mr. Krishna Das Poddar ...for the petitioners

This application under Article 227 of the Constitution is at the instance of the defendants and is directed against an order dated February 13, 2025 passed by the learned Civil Judge (Junior Division), at Haldia in Title Suit No.102 of 2002.

By the order impugned, an application under Order VI Rule 17 CPC for amendment of the written statement stood rejected.

Learned counsel for the petitioners submits that the suit was filed prior to the amendment of the Code of Civil Procedure and therefore the proviso to Order VI Rule 17 shall not stand attracted to the case on record. He submits that the learned trial court rejected the application for amendment by invoking the proviso to Order VI Rule 17 CPC.

It is not in dispute that the defendants/the petitioners herein, filed an application under Order VIII Rule 9 CPC for leave to file a subsequent pleading stating about the fact of the deeds executed on November 25, 1988 and November 28, 1988. The petition under Order VIII Rule 9 CPC was rejected by the learned trial judge by an order dated November 23, 2023. Being aggrieved, the petitioners challenged the same by filing a civil revisional

application being CO No.518 of 2024 before this court which also stood dismissed.

The petitioners have filed the application for amendment of written statement for inserting the fact of execution of the said deeds being Sale Deed No.6372/1988 and Sale Deed No. 6373/1988 and the attempt of the petitioner to incorporate the fact of execution of those deeds by way of subsequent pleading stood rejected upto this Hon'ble court. The learned trial judge was right in holding that the proposed amendment is barred by the principles of *res judicata*.

For such reasons, this court is not inclined to interfere with the order impugned.

CO No.1322 of 2025 stands thus dismissed.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

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

[Hiranmay Bhattacharyya, J]

