

M/L- 172
24/04/2025
Ct. No.-6
Aritra

C.O. 1851 of 2024

Sri Satyabrata Das & Ors.

Vs.

Subhas Chandra Das & Ors.

Mr. Debnath Basu

Mr. Subhas Jana

....for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated February 22, 2024 passed by the learned Civil Judge (Jr. Div.) Kakdwip, South 24-Parganas.

By the order impugned the application under Order 6 Rule 17 of the Code of Civil Procedure for amendment of plaint stood rejected.

The learned advocate appearing for the petitioner submits that the application for amendment of plaint was rejected by invoking the proviso to Order 6 Rule 17 of the Code though the trial of the instant suit has not yet commenced. The learned advocate appearing for the petitioner submits that the proposed amendments are necessary for the purpose of deciding the real controversies between the parties.

The petitioner herein filed a suit for declaration of his tenancy right. In such a suit the petitioner filed an application for amendment of plaint seeking to introduce the fact that the opposite party herein wanted to sale the

suit property to the petitioner herein. Thus it appears that by way of amendment the petitioner is trying to make out totally new case from that of the original plaint. If the proposed amendment is allowed the instant suit for declaration of tenancy right shall be converted into a suit for specific performance of contract.

For such reason, this Court is of the considered view that the learned trial judge was right in rejecting the application for amendment as the proposed amendments are not necessary for the purpose of deciding the real controversies between the parties.

This Court does not find any reason to interfere with the ultimate conclusion arrived at by the learned trial judge.

In view thereof, CO 1851 of 2024 stands dismissed.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)