

13.08.2024
SL No.26
Court No.24
Ali

C.O. 2609 of 2025

**Pranab Dutta
Versus
Smt. Paramita Mandal**

Mr. Sounak Bhattacharya,
Mr. Sounak Mandal,
Mr. Abhirup Haldar,
Mr. Anirban Saha Roy

.....for the petitioner.

The instant Civil Revision has been preferred against an order dated 23rd of June, 2025 passed by learned Civil Judge (Sr. Divn.), 10th Court, Alipore, Dist.-24-Parganas (South) in Money Suit 15 of 2014.

The brief fact of the matter is that during the pendency of the suit the plaintiff, namely, Paramita Mondal filed an application for amendment under Order 6 Rule 17 CPC; in the said application from page one to the last page, the name and the signature of the deponent appears to be as "Paramita Dutta". In the affidavit portion of the said application the name of the plaintiff is appearing as Paromita Mondal. Present petitioner being the defendant after receiving such application has filed an application before the learned Trial Court under Section 151 CPC,

containing, inter alia, that the application for amendment under Order 6 Rule 17 was not filed by the plaintiff and the plaintiff's signature was forged which tantamount to a criminal offence. Defendant intend to initiate a proceeding of forgery under Section 340 of IPC and prayed that the petition under Order 6 Rule 17 be kept in the safe custody to justify the forge and false signature of the plaintiff. A written objection was filed on behalf of the plaintiff against the petition filed by the defendant/petitioner, wherein the plaintiff through affidavit has contended that the signature appearing in the application under Order 6 Rule 17 is signature of another person, namely, "Paramita Dutta".

It is contended in the said objection that learned advocate Mr. Tirthankar Das had another client, namely, Paramita Dutta and on the same day both the clients i.e., the plaintiff and Paramita Dutta appears before the learned advocate for swearing affidavit. The clerk of the said advocate has mixed up both the petitions and ultimately application under Order 6 Rule 17 was signed by one Paramita Dutta. By filing objection the plaintiff has unequivocally stated that there is a mistake on the part of the learned advocate so the plaintiff

prayed for dismissal of the application under Section 151 of CPC.

Learned Trial Court after hearing both the parties has observed that the learned advocate on behalf of the plaintiff admitted that inadvertently the petition was signed by one Paramita Dutta being another client of the advocate.

Learned Court by passing the impugned order has accepted the submission of petitioner and rejected the application under Section 151 of CPC filed by the defendant/petitioner herein.

Learned counsel appearing on behalf of the petitioner submits that the impugned order passed by the learned court below is perverse. The learned Court below should have justified that there were presence of another person, namely, Paramita Dutta who sworn affidavit on the same day before the Notary Public. He further pointed out that learned Court below has also not considered the act and action of the Notary Public who abruptly admitted the swearing of Paramita Mandal in the signature of Paramita Dutta.

It is the contentions of the learned counsel for the petitioner that the learned Court below has not assigned sufficient reason in passing the order. Thus, the impugned order is liable to be set aside.

A Caveat bearing No. 2811 of 2025 was filed by the learned advocate Tirthankar Das, who was served before hearing of this matter. The service upon the learned advocate Tirthankar Das be kept on record.

In spite of service none appears on behalf of the opposite party.

It appears that the learned Court below has passed the impugned order whereby he accepted the contentions of the plaintiff as well as the explanation of learned advocate Mr. Tirthankar Das appearing on behalf of the plaintiff.

Learned Court below after hearing the parties has considered the view of the plaintiff that the signature of the plaintiff was not forged. It has further averted that due to the similarity of the 1st name of the client's affidavits are mixed and duly Notaries by the Notary Public. He has also averted that learned advocate put his signature in hest. Thus, such error could not be detected.

On perusal of the impugned order passed by the learned Trial Court it appears to me that the learned Trial Court has correctly accepted the view of the plaintiff; by filing an affidavit plaintiff has categorically stated that it is not the signature of the plaintiff but it is signature of the another person, namely, Paramita Mondal. The learned

Trial Court has correctly accepted the submission of the learned advocate so the objection raised by the present petitioner regarding forgery of signature of the plaintiff appears to me not good a ground to accepted.

On that score, I find no justification to entertain the petitioner; the reasoning of the learned Court below in passing the impugned order appears to be justified.

However, it appears that when the learned Court below has accepted the contention of the plaintiff that the signature and affidavit as well as the verification appearing in application under Order 6 Rule 17 made by another person then the plaintiff thus, the application under Order 6 Rule 17 should not be allowed to be continued. Learned Court below has committed error by not disposing of the application under Order 6 Rule 17.

On that score, the order passed by the learned Court below appears to me erroneous.

Under the above observations, the instant Civil Revision is disposed of with an order that the application being Order 6 Rule 17 filed by the plaintiff, which as per instruction of the learned counsel for the petitioner is pending before the learned Court below, cannot be allowed to be

continued as it was affirmed by the another person then the plaintiff.

Accordingly, the application under Order 6 Rule 17 pending to be determined before the learned Trial Court is hereby dismissed purely on technical reason, with a liberty to plaintiff to file afresh on the self same grounds.

Let a copy of this order be served upon the learned Trial Court through department.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

(Subhendu Samanta, J.)