

18.11.2025
Item No.44
BR

CO 3005 of 2024

**Rehana Bibi and another
-vs-
Samsun Bibi @ Samsun Nihar Bibi and
Ors.**

Mr. Shoam Sanyal
.... For the petitioner

Mr. Sounak Bhattacharya,
Mr. Sounak Mandal,
Ms. Bipasha Bhattacharyya
... for the respondent O.P.

1. The revisional application has been preferred being aggrieved vide an order being no. 31 dated 19th July, 2024 passed by the learned Civil Judge (Junior Division), 2nd Additional Court at Contai, District- Purba Medinipur, in Title Suit No. 462 of 2021.

2. Vide the order under challenge, the learned trial Court was pleased to reject the petitioner's application under Order VI Rule 17 Civil Procedure Code.

3. On hearing the learned counsel for the parties and on perusal of the materials on record, it appears that there is a dispute

regarding the date and place of death of Nehar Jaan Bewa.

4. The petitioner's case is that said Nehar Jaan Bewa expired on 13.2.1993 but due to inadvertence the place of death was written as Contai Hospital. But the same was not supported by any documents

5. The petitioner submits that subsequently the petitioner has acquired the death certificate of Nehar Jaan Bewa and as such wants to bring in only the said place of death by way of amendment.

6. Learned counsel appearing for the opposite parties/defendants submits that in their written statements their case is that Nehar Jaan Bewa expired on 26.10.2011 and at a different place.

7. It is submitted that the petitioner cannot be permitted to change the place of death at this stage.

8. From the materials on record, it appears that the suit before the trial Court is a suit for Specific Relief Act and the petitioner wants to only bring in the address on the basis of her death certificate in his possession. The same will not

change the nature and character of the suit and as the opposite party/defendant herein shall have all opportunity to place his case at the time of trial, he shall not be prejudiced in any manner whatsoever if the said amendment as prayed for is permitted.

9. Admittedly, the trial in the present case has not commenced and considering the nature of amendment prayed for, the same is required to be allowed in the interest of justice and for proper adjudication of the suit .

10. The petitioner has relied upon the judgment of a Division Bench of this Court passed in **CO No 2868 of 2017 decided on 2nd April, 2019(Sree Sree Iswar Radha Behari Jew -vs- Malati P. Soni, reported in 1019 SCC Online Cal 9113.**

11. On hearing the learned counsel for the parties and on perusal of the materials on record, the revisional application is disposed of on setting aside the impugned order under challenge.

12. The application under Order VI Rule 17 is allowed. The amendment prayed for be made part of the plaint and the petitioner shall be at liberty to file an amended plaint with a copy to the defendant/opposite party herein to file his additional written statement.

13. The trial Court to proceed with the trial expeditiously in accordance with law.

(Shampa Dutt (Paul), J.)