

Item 28.08.
No. 2025
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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 3065 of 2024
(Assigned)

Smt. Saromoni Pan & Ors.
Vs
Smt. Paramita Pan & Ors.

Mr. Atanu Biswas,
Mr. Mrinal Saha.

... for the plaintiffs/petitioners.

1. Learned counsel appearing on behalf of the petitioners is present.
2. None appears on behalf of the opposite parties in spite of repeated service of notice.
3. The instant application has been preferred assailing the order dated 24th June, 2024 passed by the Learned Civil Judge, Senior Division, Kalna, Purba Bardhaman in connection with Title Suit No. 61 of 2013, wherein Learned Judge refused the prayer of an application under Order VI Rule 17 of the Code of Civil Procedure.
4. The background fact of the suit is that the property in question identified as R.S. Plot No.4478/9341 measuring an area of 40 decimals belongs to four co-sharers having equal share of 10 decimals each and that plot was renumbered as L.R. Plot No. 5983 measuring 32 decimals of land.

5. The plaintiffs/petitioners were under impression that remaining 8 decimals of land from R.S. Plot No. 4478/9341 had gone into the river due to erosion of river bank. But subsequently by conducting a survey it has been detected that the remaining 8 decimals of land recorded in RS Khatian have been merged with some adjacent plots.
6. Learned counsel appearing on behalf of the petitioners has submitted that the proposed amendment is required to be incorporated in the schedule to the plaint which was filed with a prayer for declaration and partition as 8 decimals of land was subsequently found by conducting survey.
7. From the prayer of the plaint, it appears that plaintiffs prayed for declaration in respect of 10 decimals of land along with partition of land with other co-sharer.
8. The amendment application was filed with a prayer for incorporating rest 8 decimal of land, which was found later through survey of the land.
9. Learned Trial Judge has refused the prayer only on the ground of filing of written statement filed by the defendants.
10. From the record as well as submission advanced on behalf of the petitioners, it appears that the amendment application was filed prior to

commencement of trial. Therefore, proviso to Order VI Rule 17 of the C.P.C. has no role to play in this case.

11. After perusal of the entire pleadings as well as nature of the suit, I find that the proposed amendment should be incorporated for which none of the parties to the suit will be prejudiced and to add to that proposed amendment is necessary for just decision of the suit.
12. In the aforesaid view of the matter, the order dated 24th June, 2024 passed by the Learned Civil Judge, Senior Division, Kalna, Purba Barddhaman stands set aside. The application under Order VI Rule 17 dated 24th May, 2024 stands allowed.
13. Plaintiffs/petitioners herein are at liberty to file amendment application within 15 days from date.
14. Opposite parties/defendants are at liberty to file additional written statement, if any, within seven days thereafter.
15. Petitioners are also at liberty to communicate this order to the learned Trial Court.
16. With the aforesaid observation, the revisional application stands disposed of.
17. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.
18. All parties shall act on the server copy of this

order duly downloaded from the official website of
this Court.

(Bibhas Ranjan De, J.)