

16.08.2023
Court No. 19
Item No.06
CP

C.O. 3404 of 2022

Smt. Arati Biswas
Vs.
Sri Pronab Kumar Das & ors.

Mr. Chandra Bhanu Sinha
... for the Petitioner.

It appears that by the application for amendment, the petitioner wanted to incorporate certain facts which were not within the knowledge of the petitioner when the plaint had been filed. It is further submitted that the written statement has not yet been filed by the defendants.

Prima facie, it appears to the court that the learned court below ought to have allowed the amendment. Such amendment would not change the nature and character of the suit and would also not take away any right which had accrued in favour of the defendants. The learned court below, in my prima facie, view erred in holding that the facts which were sought to be incorporated by an amendment had been elaborately stated in the plaint.

Let there be stay of operation of the order dated August 29, 2022, passed by the learned Civil Judge (Junior Division), 2nd Court, Sealdah in Title Suit No. 313 of 2009, upto February 28, 2024, or until further orders whichever is earlier.

Let a copy of the revisional application along with the server copy of this order be served upon the opposite parties as also upon the learned advocate appearing on behalf of the opposite parties in the learned court below.

Affidavit of service to be filed on the next date.

Let this matter appear in the monthly list of November, 2023 under the heading 'Fixed Matters'.

(Shampa Sarkar, J.)