

22.05.2025

Court No.652
Sl. No.11
Mujahid

CO 3784 of 2023

**Smt. Debasree Das
Vs.
Sri Niranjan Ram**

Mr. Sarajit Sen,
Mr. Tapas Singha Roy,
Mr. Parag Mitra

...for the petitioner

Mr. Bratin Kumar Dey

...for the opposite party

Present petition has been filed challenging the impugned order dated 31st August, 2023 whereby the learned Civil Judge (Junior Division), 3rd Additional Court, Alipore, South 24 Parganas, rejected the application of the plaintiff/petitioner dated 30th May, 2023 under Order 6 Rule 17 of the Code of Civil Procedure in Title Suit No.1452 of 2021. Learned Trial Court vide a very brief order rejected the application on the ground that it will change the basic nature and character of the instant suit property.

Briefly stated, the plaintiff had filed a suit for declaration and permanent injunction. The plea of the plaintiff is that the defendant/opposite party is a stranger.

The plaintiff/petitioner, by way of amendment incorporated certain facts as mentioned in the schedule regarding the alleged transfer of electric metre, change of mailing address, information received under RTI and averment as to change of character of land from one place to another.

Learned counsel for the opposite party has vehemently refuted the averments made in the petition and has submitted that the learned Trial Court has rightly dismissed the amendment application. Learned counsel submits that if the amendments are allowed it will change the nature and character of the suit. The law regarding amendment of pleading is very well settled the courts have consistently taken a view that while considering the amendments the court should take a liberal view except in the cases where the proposed amendment will change the nature and character of the suit, or it takes away the benefits/advantage accrued to the other party in case the amendment is allowed. If there is any prejudice to the other party that can always be compensated by costs.

It is pertinent to mention here that the coordinate Bench of this Court at the time of admission of the revision petition vide order dated 27th March, 2024, inter alia, observed that prima facie the plaintiff merely wanted to bring on record,

some subsequent events with regard to the transfer of the electric metre, change in the classification of land, an information received under the Right to Information Act. It was further inter alia observed that the impugned order is unreasoned.

The court considers that the view expressed by the coordinate Bench of this court at the time of admission cannot be varied. The amendment sought for do not amount to the change of the nature and character of the suit or taking away the benefit accrued to the opposite party. However, in order to balance the interest the plaintiff/petitioner is burdened with cost of Rs.2000/- to be paid to the opposite party/defendant. In view of the discussion the present petition is allowed. The amendment petition dated 30th May, 2023 is allowed. Let the amended plaint be filed before the learned Trial Court. The defendant/opposite party shall be at liberty to take all objections and file the written statement.

Accordingly, the petition stands disposed of. Learned Trial Court shall expedite the matter in accordance with law.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Dinesh Kumar Sharma, J.)