

18.03.2025

Sl. No.: 13
Court No.30
BM

C.O. 3992 of 2024

**Ashoke Kumar Ghosh & Anr.
Vs.
Sushanta Bairagi**

Mr. Sagnik Bhattacharya

... for the petitioners

1. Affidavit of service has been filed. It appears that service could not be effected due to 'insufficient' address but from the materials on record, it appears that the service was attempted as per the address on record. Accordingly, the revisional application is taken up for hearing.

2. The present revision has been preferred against an order dated No.15 dated January 10, 2024 and Order No.18 dated August 29, 2024, passed by the learned Civil Judge, Junior Division, Second Court at Serampore, Hooghly, in Title Suit No.237 of 2022.

3. Vide the said order the learned trial court rejected the plaintiff's/petitioner's application under Order 1 Rule 10 CPC on the finding:-

" It reveals that through the instant petition petitioner prayed for impleading Smt. Suchitra Bairagi but no ground has been furnished for impleading the said Smt. Suchitra Bairagi. Further, it is found that several opportunities were given to the plaintiffs for adducing evidence. It is the plaintiff who is supposed to proceed the suit expeditiously for the interest of itself, but in the present suit from

perusal of record it is found that the plaintiffs are negligent in conducting their case. Hence, I do not find any merit in the instant petition. As such, in view of the above, this petition is liable to be rejected with a cost of Rs.500/- payable to the defendant. ”

4. It appears that the plaintiff herein could not make out any ground before the court for impleading the said Suchitra Bairagi as a party. The court took exception to the fact that the plaintiff in spite of being given several opportunities was not proceeding in the suit.

5. As directed by this court, supplementary affidavit along with supporting document (copy of deed) has been filed by the petitioner.

6. It is the case of the petitioner/plaintiff that Smt. Suchitra Bairagi is a necessary party in the suit before the trial court as she is a co-sharer/owner of the (suit) property. In support of his contention a copy of the Deed to show that the said Smt. Suchitra Bairagi is the co-sharer/owner has been placed.

7. It is also submitted that her husband Sushanta Bairagi is already a party to the suit. As the Deed of Conveyance stands jointly in the name of Sushanta Bairagi and Suchitra Bairagi, Suchitra Bairagi is a necessary party.

8. It is submitted that due to inadvertence the name of Suchitra Bairagi was left out.

9. Considering the materials on record, this court is of the view that Suchitra Bairagi is a necessary party/defendant in the suit before the trial court.

10. The order under revision dated 10.01.2024 passed by the learned Civil Judge, 2nd Court, Serampore, Hooghly, in Title Suit No. 237 of 2022 is hereby set aside.

11. The application under Order 1 Rule 10 is thus allowed.

12. The plaintiff/petitioner is granted leave to amend the cause title of the plaint before the trial court as per the order of this court. Smt. Suchitra Bairagi be made defendant no.2 in the Title Suit No.237 of 2022 pending in the court of Civil Judge, 2nd Court, Serampore, Hooghly.

13. The civil revision accordingly stands disposed of.

14. All parties to act on the basis of server copy of this order downloaded from the official website of this Court.

(Shampa Dutt (Paul), J.)