

20.08.2025
Ct. No. 30
S.L.No.21
MKP

CO 4065 of 2024

Debashish Dutta
Vs
Barsa Majhi And Ors.

Mr.Indranath Mukherjee
Mr.Sukanta Mondal

.....for the Petitioner.

1. Supplementary affidavit filed be kept with the record. The civil revision has been preferred challenging an order No.13 dated 22nd July, 2024 passed by the learned Civil Judge (Senior Division), Serampore in Money Suit No.26 of 2021, rejecting the petitioner's application for amendment of the plaint. Vide the order under challenge, the learned Trial Judge was pleased to reject the petitioners prayer for amendment of the plaint on the following findings:

“Considering the submission advanced by the Id. Lawyer of the parties to the suit, I have perused the materials on record, wherefrom it appears to me that plaintiff by this proposed amendment petition is firstly rectify the classification of suit land from Bastu to Pukur. Secondly, he intends to insert the fact about the jointness of the property of Sarmishtha Dutta, Diganta Dutta, Debashis Dutta in place of exclusive ownership of plaintiff. Thirdly by this proposed amendment

petition plaintiff also intends to implead the Sarmishtha Dutta as proforma defendant no. 10 and Fourthly, by this proposed amendment petition he intends to incorporate the fact that the property is looked after by Diganta Dutta on behalf of other owner.

On going through the materials on record, it appears to me that instant suit has been filed by plaintiff against the defendant for recovery of money to the tune of Rs. 2 lacs. The facts, which he intended to incorporate by way of amendment has already stated by him in his paragraph no. 2. The ownership of suit property is joint or exclusive one will not affect the merit of the case. Moreover, by filing this petition plaintiff cannot implead a party as proforma defendant no. 10. There is a separate provision for impleading parties. It also further transpires to me that the proposed amendment in my opinion is not at all necessary for proper adjudication of the matter in dispute as title of the plaintiff and other co owners are not disputed. So, I am not inclined to allow the prayer of plaintiff. Hence prayer is considered and rejected.

Plaintiff is directed to come ready on the date fixed for P.H.

To 27/11/2024 for P.H.

Sd/-

**CIVIL JUDGE, SENIOR DIVISION”
SERAMPORE**

2. Learned Counsel for the petitioner submits that a copy of the agreement for sale on the basis of which the Money Suit has been filed, claiming an amount of Rs.2,00,000/- (Rupees Two Lakhs), which has been paid as part consideration for the sale, has been filed with the supplementary affidavit. It appears from the agreement for sale that a sum of Rs. 2,00,000/- (Rupees Two Lakhs) has been transferred in favour of the opposite party.

3. The agreement for sale in the present case is between the plaintiff and the opposite parties herein. It is stated by the learned Counsel for the petitioner that the previous advocate for the Petitioner/Plaintiff has expired and due to inadvertence there has been an error in schedule to the plaint and he prays that if the said amendment to the said schedule of the plaint is not allowed, he shall suffer irreparable loss and injury though the opposite party who has not appeared shall not be prejudiced.

4. It appears that the amendment prayed for in respect of the schedule to the plaint involves the correction of the plot number and also the classificate/nature of the land.

5. This Court finds that admittedly the agreement for sale is between the parties in this case and it is on

the basis of this agreement for sale that the Money Suit has been filed.

6. Considering that the learned Trial Court has not noted anything about the trial having commenced in the suit, the amendment prayed for being necessary for proper adjudication of the Money Suit is allowed as it is based on the said agreement for sale.

7. The same is also subject to proof during trial and the amendment shall not prejudice, the opposite party/defendants herein, who have failed to appear before this Court, in spite of, due service.

8. The findings of the Trial Court regarding the application for addition of parties being in accordance with law is not interfered with.

9. The Revisional application stands **disposed of**.

10. Pending applications, if any, stand disposed.

11. Interim order, if any, stands vacated.

12. Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]