

06.05.2025
Item No. 37
Ct. No. 30
Aloke

CO 4070 of 2024

Md. Mazahar Ali
Vs
Susama Biswas & Ors.

Mr. Laxminath Bhattacharya
Mr. Banshi Badan Maity
... for the petitioner

- 1.** Affidavit-of-service filed be kept with the record.
- 2.** Supplementary affidavit enclosing copy of the
plaint, written statement and the application
under Order 6 Rule 17 CPC is filed.
- 3.** The present civil revision has been preferred
against an order no. 25 dated 22.05.2024
passed by the learned Civil Judge (Senior
Division) at Basirhat, North 24 Parganas in T.S.
No. 186 of 2023.
- 4.** Vide the order under challenge the learned trial
Judge while disposing of the application under
Order 6 Rule 17 CPC has passed the following
order:-

“Parties file hazira.

*The petition under section 153
C.P.C. is taken up for hearing.*

*Perused the petition and the W.O.
filed.*

*Heard Ld. Advocate for both the
parties on the earlier occasion.*

*The proposed amendment in the
instant injunction application as
mentioned in the schedule to the petition*

is required to be allowed for proper disposal of the suit.

The petition is therefore, allowed.

Now, the petition under order 6 rule 17 C.P.C. is taken up for hearing.

Perused the petition and the W.O. filed.

Heard Ld. Advocate for both the parties on the earlier occasion.

The proposed amendment in the plaint as mentioned in the schedule to the petition is required to be allowed for proper disposal of the suit. The petition is therefore, allowed.

Let the instant petition be made part of the plaint.

Fix 27/06/24 for filing amended plaint and amended injunction application.

Plaintiff is directed to serve the copy of the plaint and the injunction application to the defendants in the mean time.

Defendants may file addition W.S., if any in the mean time.”

5. It appears from the order under challenge that while allowing the prayer for amendment which is an amendment to include facts of almost three pages, the trial Court has neither discussed the necessity for the amendment sought for nor the grounds for allowing the said amendment.
6. In ***State Project Director U.P. Education for All Project Board & Ors. Vs. Saroj Maurya & Ors., in Civil Appeal No. 3465 of 2023, decided on 21st August, 2024***, the Supreme Court held:-

“3. We are of the opinion that in the absence of any reasoning in the impugned judgment, the same cannot be sustained. In this regard, we are benefitted by the following observations made by this Court in CCT v. Shukla & Bros., (2010) 4 SCC 785. The relevant paragraphs of the judgment are extracted hereinbelow: -

“23. We are not venturing to comment upon the correctness or otherwise of the contentions of law raised before the High Court in the present petition, but it was certainly expected of the High Court to record some kind of reasons for rejecting the revision petition filed by the Department at the very threshold. A litigant has a legitimate expectation of knowing reasons for rejection of his claim/prayer. It is then alone, that a party would be in a position to challenge the order on appropriate grounds. Besides, this would be for the benefit of the higher or the appellate court. As arguments bring things hidden and obscure to the light of reasons, reasoned judgment where the law and factual matrix of the case is discussed, provides lucidity and foundation for conclusions or exercise of judicial discretion by the courts.

24. Reason is the very life of law. When the reason of a law once ceases, the law itself generally ceases (Wharton's Law Lexicon). Such is the significance of reasoning in any rule of law. Giving reasons furthers the cause of justice as well as avoids uncertainty. As a matter of fact it helps in the observance of law of precedent. Absence of reasons on the contrary essentially introduces an element of uncertainty, dissatisfaction and give entirely different dimensions to the questions of law raised before the higher/appellate courts. In our

view, the court should provide its own grounds and reasons for rejecting claim/prayer of a party whether at the very threshold i.e. at admission stage or after regular hearing, howsoever concise they may be.

25. We would reiterate the principle that when reasons are announced and can be weighed, the public can have assurance that process of correction is in place and working. It is the requirement of law that correction process of judgments should not only appear to be implemented but also seem to have been properly implemented. Reasons for an order would ensure and enhance public confidence and would provide due satisfaction to the consumer of justice under our justice dispensation system. It may not be very correct in law to say, that there is a qualified duty imposed upon the courts to record reasons.

26. Our procedural law and the established practice, in fact, imposes unqualified obligation upon the courts to record reasons. There is hardly any statutory provision under the Income Tax Act or under the Constitution itself requiring recording of reasons in the judgments but it is no more *res integra* and stands unequivocally settled by different judgments of this Court holding that the courts and tribunals are required to pass reasoned judgments/orders. In fact, Order 14 Rule 2 read with Order 20 Rule 1 of the Code of Civil Procedure requires that, the court should record findings on each issue and such findings which obviously should be reasoned would form part of the judgment, which in turn would be the basis for writing a decree of the court.

27. By practice adopted in all courts and by virtue of judge-made law, the concept of reasoned judgment has become an indispensable part of basic rule of law and, in fact, is a

mandatory requirement of the procedural law. Clarity of thoughts leads to clarity of vision and proper reasoning is the foundation of a just and fair decision. In Alexander Machinery (Dudley) Ltd. [1974 ICR 120 (NIRC)] there are apt observations in this regard to say “failure to give reasons amounts to denial of justice”. Reasons are the real live links to the administration of justice. With respect we will contribute to this view. There is a rationale, logic and purpose behind a reasoned judgment. A reasoned judgment is primarily written to clarify own thoughts; communicate the reasons for the decision to the concerned and to provide and ensure that such reasons can be appropriately considered by the appellate/higher court. Absence of reasons thus would lead to frustrate the very object stated hereinabove.”

7. Thus the order of the learned trial Judge being an unreasoned order suffers from inherent defects and permitting such an order to remain shall be an abuse of process of law and is thus liable to be set aside.
8. It is the contention of the petitioner/defendant herein that the amendment sought for is contrary to the pleadings in the plaint and, as such, the defendants have been prejudiced.
9. On the other hand, the learned counsel for the plaintiff/opposite party herein submits that the amendment sought for is in accordance with law and is necessary for proper adjudication of the case.

10. Considering the submissions of the parties, the materials on record and the order under challenge, this Court finds that the order being not in accordance with law, is liable to be set aside.
11. **Accordingly, the order dated 22.05.2024 passed in Title Suit No. 186 of 2023 is herein set aside.**
12. The learned trial Court is directed to hear the application under Order 6 Rule 17 afresh and on hearing the parties shall **pass a reasoned order** as per the relevant provisions of CPC and shall dispose of the application in accordance with law by 30th June, 2025.
13. Learned counsel for the petitioner/defendant submits that by filing the prayer for amendment the order of the High Court directing hearing of the injunction application within 3 weeks has not been complied with.
14. The trial Court is further directed that it shall be at liberty to dispose of the injunction petition during the interim period in accordance with law.
15. **The civil revision being C.O. 4070 of 2024 is disposed of.**
16. There will be no order as to costs.
17. All connected applications, if any, stand disposed of.

- 18.** Interim order, if any, stands vacated.
- 19.** Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Shampa Dutt (Paul), J.)