

04.08.2025
Item No.58.
Court No.06.
S. De
265719

C.O. 4198 of 2024

Sandhya Rani Patra.
Vs
Sri Sibsarmka Patra @ Bholakrishna Patra & Ors.

Mr. G.K. Das,
Mr. Kapil Chandra Sahoo,
Mrs. P. Dutta, ...for the petitioner.

Mr. Gopal Chandra Ghosh, Sr. Adv.,
Ms. Sunandana Saha, ...for the opposite parties.

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated September 11, 2024, passed by the learned Civil Judge (Junior Division), Haldia, Purba Medinipur in Title Suit No.114 of 2022.

By the order impugned, the application under Order 6 Rule 17 of the Code of Civil Procedure stood rejected.

The learned advocate appearing for the petitioner submits that through inadvertence, the particulars of the deed in respect of which the petitioner sought for a declaration that the same was procured by undue influence and fraud, was not mentioned.

Mr. Ghosh, learned senior advocate appearing for the opposite parties submits that the petitioner was

not at all diligent in filing the suit. He further submits that though they had knowledge about the said deeds at the time of filing of the suit but the petitioner did not incorporate the particulars of the said deed in the schedule.

Heard the learned advocates for the parties and perused the materials placed. After going through the averments made in the plaint, this Court finds that the petitioner has prayed for relief that certain deeds being Ka-1, Ka-2, Ka-3 and Ka-4 as mentioned in the schedule of the plaint were obtained through undue influence and by practicing fraud upon the petitioner. However, after going through the schedule of the plaint, this Court finds that though the suit property was mentioned in the 'Ka' schedule but the particulars of the deed as referred to in paragraph "B" of the plaint was not specified in the schedule.

Such being an inadvertent error, this Court is inclined to allow the prayer for amendment seeking to incorporate the particulars of the deeds in question.

The proposed amendments are necessary for the purpose of deciding the real controversies between the parties. The amendment sought for, if allowed would also not change the nature of the suit as the same would still remain a suit for declaration of title and permanent injunction. The learned Trial Judge failed to appreciate that the proposed amendments are

necessary for the purpose of effective adjudication of the dispute involved between the parties in the suit in question to allow his prayer for amendment.

C.O. No. 4198 of 2024 stands allowed. The application for amendment of plaint dated March 11, 2024 stands allowed.

The petitioner is directed to file the amended plaint within a period of two weeks from the date of receipt of the server copy of this order. The defendant/opposite party will be at liberty to file additional written statement within a period of two weeks from the date of service of a copy of the amended plaint to the learned advocate-on-record for the opposite parties before the learned Trial Judge.

(Hiranmay Bhattacharyya, J.)