

S/L 3
14.05.2025
Court No.2
SD

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURISDICTION

CO 57 of 2025

Ratan Kumar Sarkar & Ors.

Vs.

Aparna Dutta & Ors.

Mr. Ajoy Kumar Singhania

...for the Petitioners.

Affidavit of service filed on behalf of the petitioners be kept with the record.

None appears on behalf of the opposite parties.

The Opposite Party nos. 5 and 6 are the transferees *pendente lite*, they have been impleaded in the suit on an application filed by the petitioners under Order I Rule 10(2) of the Code of Civil Procedure.

The learned Trial judge by the order impugned, though has allowed the said application, but has imposed costs of Rs. 5000/- upon the petitioners for putting in the requisites for service of summons upon the added defendants before the application for their addition was allowed.

Mr. Singhania, learned advocate for the petitioners, submits that the junior advocate had erroneously put the requisites under the impression that the opposite party no. 5 and 6 has been added, as such, the remarks of the learned Trial Judge in the order impugned that the learned counsel for the defendant Nos. 1, 2, and 4 had misled the court, are not correct.

He further submits that the learned Trial Judge, though has allowed the said application for addition of parties but consequent direction for amendment of cause title of the plaint has not been passed, besides, the direction for service upon the defendant nos. 7 and 8 is also erroneous inasmuch as the said defendants have already entered appearance.

Putting in requisites along with the application for the addition of party is not a serious lapse inasmuch as the requisite so put in may be exploited after the application is allowed, therefore, the costs of Rs. 5000/- imposed upon the petitioners is set aside and adverse remarks recorded in the order impugned against the learned counsel for the petitioners and against the court staff are expunged.

The necessary amendment to the cause-title of the plaint consequent upon the addition of parties would be carried out by the department. The petitioners are at liberty to bring it to the notice of the learned Trial Judge that the summons upon the added parties need not be issued as they have already appeared in the suit.

C.O. 57 of 2025 is disposed of with above terms and observations without any order as to costs.

Parties to 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 subject to compliance with all requisite formalities.

(Biswajit Basu, J.)