

09.01.2026
Ct. No. 30
S.L. No. 24
SM

CO 936 of 2023
Sri Jyotirindra Chattopadhyay
Versus
Sri Gyanendra Chandra Chattopadhyay & Ors.

Mr. Aviroop Bhattacharya
.....for the petitioner

1. The revision has been preferred against an order no. 60 dated 21.01.2023 passed in Title Suit No. 144/2015 by the learned Civil Judge (Senior Division) Katwa, Purba Bardhaman, rejecting the application for amendment under order 6 Rule 17 of the Code filed by the petitioner.

2. In the plaintiff/petitioner's suit for partition, the plaintiff/petitioner filed an application under Order 6 Rule 17 of C.P.C for amendment of the plaint by deleting some plots of lands from the schedule of the plaint inasmuch as apart from plaintiff and others are owners and possessor of those lands mentioned in the said application for amendment.

3. The defendant/opposite party no. 1 raised objection and the Trial Court vide the impugned order held as follows:-

“Perused the petition, W/O and other materials on record, it appears that this is a suit for partition and the plaintiff by filing this amendment petition wants to delete some plots from the schedule of the plaint. It is admitted that both plaintiff and defendants are co-sharers besides other co-sharers

are there. Plaintiff does not want to make party of the other co-sharers of the suit plot which he wants to delete. I am in view, plaintiff has a option in his hand to make party of the other co-sharers of the suit plot in the instant suit, then only plaintiff will get relief otherwise his suit will be frustrated for wants of non-joinder of necessary party.

Under the facts and circumstances of the matter, if the amendment petition be allowed both plaintiff and defendants will suffer irreparable loss and injury and there will be every chance of multiplicity of proceeding.

As such, I do not find any justification to allow the petition.

Hence, it is.

Ordered

that the petition u/o 6 r. 17 of the CPC dt. 08.09.22 is hereby rejected on contest but without any order as to costs.”

*Sd/-
Civil Judge (Sr. Divn.)
Katwa, Purba Bardhaman*

4. **In a suit for partition**, the properties jointly owned by several persons (co-owners or coparceners) are to be brought into the hotchpotch (schedule properties).

5. It is only those properties, which are co-owned by the parties which is required to be brought on

record to make the partition suit maintainable and ensure that no such property co-owned by the parties on record is left out of the said partition. **This is to ensure that there is no multiplicity of proceedings.**

6. The plaintiff's/petitioner's case herein is that all properties co-owned by the parties to the suit, have been brought on record and it is those plots/properties where there are other co-sharers that he does not wish to include in the suit.

7. It is his prayer to keep only those properties co-owned by the parties herein that he wants partitioned.

8. This is a suit filed by the plaintiff and he is the best person to decide.

9. The defendant/opposite party herein could not identify any of the properties sought to be deleted which are co-owned by the parties herein. And that being the case the question of the defendant/opposite party being prejudiced does not arise.

10. Considering the said facts, the impugned order dated 21.01.2023 passed by the learned Civil Judge (Senior Division) Katwa, Purba Bardhaman, in Title Suit No. 144/2015, not being in accordance with law is set aside.

11. The petition dated 20th March, 2023 under Order 6 Rule 17 CPC filed by the plaintiff/petitioner is allowed.

12. Plaintiff to amend the plaint accordingly and file an amended plaint with a copy to the defendant who shall be at liberty to file additional written statement, if any.

13. The Trial Court on completion of the same shall proceed with the suit in accordance with law.

14. **CO 936 of 2023 is allowed.**

15. Applications, if any, connected thereto stand disposed of consequently.

16. Interim order, if any, stands vacated.

17. 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]