

17.3.2026
Item no. 31
Court no. 30
g.b.

CO 1491 of 2022

**Yogmaya Chandra & Ors.
Vs.
Supriyo Chandra & Ors.**

Mr. Pratip Kumar Chatterjee, Sr. Advocate
Mr. Ashish Deb
Ms. Maitrayee Chatterjee
..... For the Petitioners
Mr. Partha Pratim Roy
Mr. Saikat Gayen
.....For the Opposite Party

1. The civil revision has been preferred challenging an order No. 54 dated March 15, 2021 passed by the learned Civil Judge (Junior Division), 2nd Court at Kandi, District – Murshidabad in connection with Partition Suit No. 138 of 2013 (CIS No. 32 of 2015) whereby rejecting the application under Order 6 Rule 17 of the Code of Civil Procedure, 1908 filed by the defendants, i.e. the petitioners herein. Vide the impugned order the learned trial Court has rejected the defendants/petitioners' application under Order 6 Rule 17 of the Code of Civil Procedure seeking amendment of his written statement in a suit for partition.
2. The learned trial Court has rejected the application on two grounds. One of the grounds is that an earlier application for amendment on the self-same grounds was rejected and this being a similar application was not accepted by the Court. The

second reason being that the said amendment would change the nature and character of the suit.

3. Learned counsel for the defendants/petitioners has relied upon the judgement of the Supreme Court in the case of **Usha Balashaheb Swami Vs. Kiran Apaso Swami** reported in **(2007) 5 SCC 602** and submitted that as he is the defendant in the suit before the trial court, in view of the judgement of the Supreme Court, he cannot be stopped from making an amendment of the written statement.
4. On hearing the learned counsel for the parties and on perusal of the materials on record, this Court finds that the suit in which amendment is sought for is a suit for partition and in a suit for partition the parties herein are both plaintiffs and defendants and vice versa and both parties have right in the suit and represent the other parties in the present case. As such the defendant/petitioner herein also stands in the shoes of the plaintiffs and his prayer for amendment is to be considered as an amendment made by the plaintiff in a suit for partition.
5. Finally on perusal of the amendment prayed for in the application filed by the defendant under Order 6 Rule 17 of the Code of Civil Procedure, this Court finds that the amendment prayed for is

extensive and the said amendment is sought to be made to change the statements made in the written statement by the defendant and as such if the same is permitted, the same shall change the nature and character of the suit and cause prejudice to the plaintiff/opposite party herein.

6. Accordingly, this Court finds no reason to interfere with the impugned order under challenge.
7. The civil revision being **CO 1491 of 2022** stands dismissed.
8. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis after compliance of all necessary formalities.

(Shampa Dutt (Paul), J.)