

D/L- 4
24/03/2026
Ct. No.-19
Aritra

C.O. 3355 of 2024
Subimal Chakravarti & Anr.
Vs.
Jaba Ballav & Anr.
With
CAN 5 of 2026

Mr. Anirban Mitra
Mr. Amit Halder
Mr. Amit Roy

....for the petitioners

Mr. Santanu Mukherjee
Ms. Madhumita Kar

....for the opposite parties

The order being No.57 dated July 24, 2024 passed by the learned Civil Judge (Sr. Div.), 2nd Court, Tamruk, District-Purba Medinipur in Title Suit No.161 of 2018 is under challenge in the Civil Revision Application at the instance of the defendants.

By the order impugned the application for amendment of plaint stood allowed.

The learned advocate appearing for the petitioners submits that the proposed amendment would result in changing the nature and character of the suit property. He further submits that the plaintiffs sought to challenge the legality and validity of the deeds by way of amendment. He submits that the opposite party sought to incorporate time barred claim by way of amendment.

The learned advocate appearing for the opposite parties submits that the proposed amendments are necessary for the purpose of deciding the real controversy

between the parties. He further submits that the proposed amendment would not change the nature and character of the suit.

The learned trial judge, in the order impugned, after noting the objections raised by the petitioner against the proposed amendment observed that the legality and validity of the deeds and Record of Rights can be challenged in a suit for partition upon declaration of shares. However, the learned trial judge did not return any finding as to why the proposed amendments are necessary for the purpose of deciding the real controversies between the parties. Whether the claim sought to be incorporated by way of amendment has become time barred or not has also does not appear to have been considered by the trial judge before allowing the prayer for amendment. That apart, the learned trial judge also recorded that the proposed amendment if allowed would cause undue hardship to the defendants. However, after recording the said finding, the learned trial judge allowed the application for amendment subject to payment of compensatory costs.

Thus, it appears that the learned trial judge did not follow the principles laid down by the Hon'ble Supreme Court while considering the prayer for amendment of pleading.

For such reason this Court is inclined to interfere with the order impugned.

Accordingly, the impugned order dated July 24, 2024 passed by the learned Civil Judge (Sr. Div.), 2nd Court at Tamruk, District-Purba Medinipur in Title Suit No.161 of 2018 is set aside with a direction upon the learned trial judge to decide the application for amendment of plaint afresh after affording an opportunity of hearing to the respective parties. The learned trial judge is directed to dispose of the application for amendment of plaint as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

With the above observations and directions, C.O. 3355 of 2024 along with CAN 5 of 2026 stands disposed of.

There will be no order as to costs.

All parties shall 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 upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)