

05.05.2026
Ct No.2
D/L 35
Mujahid

CO 3448 of 2024

Sri Pankaj Paul & Ors.
Vs.
Smt. Bani Mallick & Ors.

Mr. Gopal Ch. Ghosh, Sr. Adv.
Mr. R.K. Mondal

...for the petitioners

Mr. Sandip Ghosh
Mr. Partha Sarkar
Ms. Jayashree Dani

...for the opposite parties

1. Present petition has been filed challenging the impugned order dated 29th June, 2024 whereby the learned trial court has allowed the amendment application being moved by the opposite parties/plaintiffs.

2. Learned senior counsel for the petitioners states that the learned trial court has passed the cryptic order allowing the amendment ignoring the fact that the suit itself is not maintainable under Section 21 of the West Bengal Land Reforms Act, 1955.

3. Learned counsel for the opposite parties/plaintiffs has submitted that the learned trial

court has rightly allowed the amendment, inter alia, holding that the proposed amendments were not taking away any valuable right accrued to the defendants.

4. It is a settled proposition that the amendment in the pleadings are generally allowed if the amendments are necessary for the purpose of determining the real question in controversy between the parties. However, such amendment cannot be allowed if by allowing the amendment the nature of the suit is changed or the amendment will introduce new cause of action and intends to prejudice the other party.

5. In the present case, learned senior counsel submits that the suit in question was filed for declaration and injunction by the plaintiff on the basis that they had purchased the same from Atul Chandra Pal. The possession was also duly delivered to father of plaintiff no.2 and his name was duly recorded in the present settlement. The plaintiff in the present case inherited the property in equal shares.

6. Perusal of the plaint indicates that the plaintiffs had agitated that late Biswanath was the exclusive owner, but at the time of preparation of L.R. record in the name of Biswanath his brother's name Sambhunath was noted as bargadar. Sri

Sambhunath is father of the defendants, i.e., the petitioners. Thus, the plaintiffs in the suit itself had also challenged the status of late Sri Sambhunath as bargadar. By way of amendment, the plaintiffs only sought an amendment that the defendants dispossessed the plaintiffs from the suit property and as a result that the plaintiffs are being deprived of the harvest from the same.

7. Thus the question that whether the predecessor in interest of the defendants/petitioners are bargadar or not or plaintiffs/opposite parties have been illegally dispossessed as yet to be determined by the learned trial court. The issue of maintainability of the suit under Section 21 of the West Bengal Land Reforms Act, 1955 can also be agitated by the petitioners/defendants before the learned trial court. This court in the revisional jurisdiction has a limited scope of interference.

8. The court finds that there is no illegality or perversity in the order of the learned trial court.

9. Hence, the revision petition is dismissed.

10. However, the petitioners shall be at liberty to raise the issue of maintainability under the West Bengal Land Reforms Act, 1955 in accordance with the law before the learned trial court.

11. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Dinesh Kumar Sharma, J.)