

Ct. No. 29
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2026

C.O. 3896 of 2024

Mokbul Hussain
Vs.
Some Ali & Ors.

Mr. Saunak Bhattacharya
Mr. Sounak Mondal

...For the Petitioner.

Mr. Sayantan Hazra

...For the Opposite Parties

Affidavit of service filed by the petitioner is taken on record.

This is an application wherein petitioner has challenged the impugned order dated 26.07.2024 passed by learned Civil Judge (Junior Division) Islampur, in Title Suit No. 56 of 2012, by which learned Court below has rejected plaintiff's prayer for amendment for inserting boundary of some suit plots in the schedule to the plaint, which has been filed at the stage of hearing argument of the suit.

Being aggrieved by the aforesaid order of rejection learned counsel for the petitioner submits that the Trial Judge in exercise of its jurisdiction acted illegally and with material irregularity, since for effective adjudication of the suit and in the event of execution of decree proposed amendment is very much required, which the court below had failed to appreciate.

Learned counsel for the opposite parties submits that the proposed amendment is divided into two parts. In the first part, the plaintiff has proposed to add the boundary of the suit plot no.1265 and 1268 as well as boundary of suit plot no. 1200, but the defendants in their written statement has taken a specific plea that the description given in the schedule to the plaint is incomplete and vague and it does not disclose in which disputed portion the property situates. Now, in order to fill up the lacunae, the plaintiff has preferred the first part of the proposed amendment. Moreover, such proposed amendment could have been filed before commencement of trial and therefore without having any explanation for delay, such proposed amendment is barred under proviso to Order VI, Rule 17 C.P.C. So far as the second part of the amendment, he also raised objection contending that witnesses have already been examined and in such circumstances, such amendment is not at all required for the effective adjudication of the suit.

Having heard learned counsel for the

petitioner and the opposite parties, it appears that though the plaintiff certainly ought to have ideally incorporated the boundary of the above-mentioned suit schedule plots at the time of filling of the suit but I am inclined to consider well known principle that mofussil pleading which are often drafted with less technical precision compared to those of higher courts must be construed liberally and reasonably rather than with strict technicality and the primary focus should always be to interpret the pleading as a whole to understand the true intent of the parties.

It is not the case of the defendant that by way of amendment, so far it relates to first part is concerned, plaintiff wants to add any new plot or new cause of action in the suit but has been filed to elucidate the property in question. Therefore, I find no reason to disallow such prayer only on the ground that suit has already been posted for hearing argument. In fact learned Court below while rejected such prayer has not at all assigned any reason but only observed that amendment as prayed for cannot be entertained at this stage,

which according to me is a perverse finding and suffers from impropriety and therefore liable to be set aside.

However, I find that part “B” of the proposed amendment has become redundant in view of the fact that all the witnesses have already been examined and the suit has already been posted for hearing argument as submitted by the parties.

In such circumstances, the instant application being C.O. 3896 of 2024 is hereby disposed of observing that first part of the proposed amendment marked as “A” to the schedule of Application is hereby allowed and incorporated in the schedule to the plaint but the later part of the proposed amendment marked as “B” stands rejected.

Plaintiff is directed to file amended plaint within a fortnight from the date of communication of this order.

Learned Trial Court is requested to make every endeavour to pronounce the Judgment preferably within a period of three months thereafter giving opportunity to both the parties

to argue their respective cases.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)