C.O. 4299 of 2025

Smt. Rupa Mallick Maity
-vs-
Smt. Gouri Maity & Ors.

12. 11.2026
sl.no.27
ct.652

Mr. Neil Basu
Mr. A. Paul
….for the petitioner

1. Affidavit of service filed by the petitioner is taken on record.
2. In spite of completed service, none appears for any of the opposite parties. Hence, let this civil revision be taken up for consideration, in absence of the opposite parties.
3. An order of the Additional Chief Judicial Magistrate-cum-Civil Judge(Sr. Division) at Kakdwip dated 16.05.2025 in Title Suit No. 214 of 2022 is under challenge in the instant writ revision.
4. The petitioner has once filed an application on 27.04.2024 under Order VI Rule 17 of the Code of Civil Procedure before the trial court, seeking amendment of the plaint by way of incorporating in the schedule of the plaint “RS Plot No. 827”, as the part of property of which the petitioner has sought for partition in the said suit.
5. According to the petitioner, the same could not have been incorporated in the plaint due to her lack of knowledge about the same.
6. Mr. Neil Basu, learned advocate for the petitioner in this regard has pointed out by citing a part of the plaint annexed to the instant

civil revision that, the plaintiff has appropriately claimed therein about her unawareness of the entire plots of property which require partition by metes and bounds, by way of a decree of the Court.

7. In such circumstances, according to the learned advocate for the petitioner, the impugned order is unsustainable and illegal, that the Court has failed to consider that without the amendment being incorporated as sought for by the petitioner, the real issues in controversy couldnot be duly appreciated and adjudicated.
8. After careful perusal of the impugned order, it appears that the learned trial court has come to a finding that the amendment sought for shall be in contradiction with the averments made in the plaint and shall amount to be withdrawal of admission made by the plaintiff in her plaint.
9. Such finding however, appears to be not in consonance with the affairmations of the plaintiff in the plaint as regards lack of his total knowledge about the properties which are required to be partitioned between the parties by metes and bounds by a decree of the Court.
10. Therefore, according to this court the impugned order of the trial court as above is premised on erroneous appreciation of the positive affirmations made in the plaint the itself and wrong application of the principles of law. It is well settled that an application for amendment of pleadings is required to be considered with reference to whether such amendment is necessary for determining the real questions in controversy between the parties. The power

under Order VI Rule 17 of the Code of Civil Procedure is intended to facilitate effective adjudication and not to defeat a legitimate claim on account of an inadvertent omission in the original pleadings. Where the proposed amendment merely seeks to bring an additional property within the ambit of an existing partition claim, its necessity and relevance ought to be examined in the context of the nature of the suit.

11. Furthermore the proposed amendment amounts to withdrawal of admission by the petitioner, as held, is misconceived. The question whether an amendment amounts to withdrawal of an admission must be determined by examining whether it fundamentally alters the nature of the original case or takes away an accrued right of the opposite party. In the present case, the proposed incorporation of the omitted plot, particularly in view of the plaintiff's specific assertion regarding her lack of complete knowledge of the properties available for partition, does not appear to introduce an altogether inconsistent case. Rather, the amendment would enable the Court to effectively adjudicate the entire controversy relating to partition.

12. Hence, the Court finds that the impugned order dated 16.05.2025 in Title Suit No. 214 of 2022 is required to be interfered into.

13. In view of the discussion as above, the said order is unsustainable and required to be set aside.

14. On the discussion as made above, let it be directed that the instant civil revision is allowed,

by setting aside the impugned order dated 16.05.2025 in Title Suit No. 214 of 2022 by the Additional Chief Judicial Magistrate-cum-Civil Judge(Sr. Division) at Kakdwip.

15. Let the amendment, as per schedule of amendment in the petition dated 27.3.2024 filed by the present petition/plaintiff before the learned trial court be carried out and incorporated in the plaint.

16. Let the learned trial court proceeds in accordance with the law as expeditiously as possible to hear out the suit of partition pending before it as above.

17. With the direction as above, the instant civil revision is disposed of.

(Rai Chattopadhyay, J.)