

T.S.23/2022(Regd no. 296 of 2017)

Order No. 61

Dated : 27.03.2023

1. Both parties file hazira.
2. Today is fixed for hearing of petition u/o 6 rule 17 thereby praying for amendment of plaint filed by the plaintiff on 20/02/2023. Ld. Advocate for the defendant filed a W/O to the instant petition
3. Accordingly the petition and W/o are taken up for hearing in presence of both the parties.
4. The contention of the plaintiff is that plaintiff being illiterate, he did not clearly state about certain documents to his Ld. Advocate and for proper adjudication of this suit insertion of facts regarding said documents is very much essential.
5. Defendant submitted that amendment prayer of the plaintiff is vague and the same cannot be allowed mainly on the premise that the plaintiff has come at a belated stage for such prayer and there is no reasonable ground by him to show as to why he did not introduce the said facts at the time filing plaint. He also contended that petition is filed with malafide intentions. Accordingly he prayed for rejection of instant petition.
6. Heard. Perused the materials on record and specifically on perusal of the schedule of amendment petition I find that facts which the plaintiff has sought to introduce in the plaint are related to Khatian no. of the plaintiff and payment of Khajna by Plaintiff's son as well as his son's presence at the time of grant of patta. I am of the view that the fact sought to be introduced are explanatory in nature and they are in no manner different from the case put up by the plaintiff in his plaint case.
7. Now considering the fact that allowing an amendment in plaint does not prove the fact sought to be introduced and the onus remains on the plaintiff to prove those fact by adducing best evidence available to him, I am of the view that the facts which the plaintiff seeks to bring on record will help this court in deciding the dispute completely in between the parties.
8. So far as the defence taken by defendant is concerned , this Court cannot look into the merit of the facts sought to be introduced since it is yet to be proved at the time of trial.
9. Accordingly perusing the schedule of the amendment petition it appears to me that the amendment sought for will not change the nature and character

of the present suit, rather it will help this court in effectively disposing of the case.

10. However since the plaintiff has come up with this petition at this belated stage he needs to compensate the defendant for that. Accordingly finding merit in the present petition I am inclined to allow the same.

11. Hence, it is ,

Ordered

12. that the application U/O 6, Rule 17 be and the same is allowed on contest subject to payment of cost of Rs. 200/- to the defendants..

13. Let the present amendment application be made part of plaint

14. Defendant may file additional W/S.

To **03.05.2023** for Payment of cost and P.H as special chance

T/C by me,

Sd/- R. Trivedi

Civil Judge (Jr. Divn.)

Additional Court, Garhbeta,

Paschim Medinipur

Sd/- R. Trivedi

Civil Judge (Jr. Divn.)

Additional Court, Garhbeta,

Paschim Medinipur