

T.S. 05 of 2022
C.I.S. Reg. No. T.S. 02 of 2022
JO Code : WB01314

Order No. 23; dated 07-08-2023:-

Today is fixed for hearing of petition under O 6 R17 of CPC and report of Advocate Commissioner.

No report has yet been filed the concerned Advocate commissioner. Neither any time petition has been filed.

Now, the amendment petition is taken up for hearing and passing necessary order.

The plaintiff stated that some pertinent facts relating to the case has been inadvertently omitted in the plaint which are required to be incorporated in this suit for proper adjudication of the suit. Such amendment is necessary for effective and proper adjudication of the suit and the same is not going to change the nature and character of the suit property. It is not going to prejudice the defendants in any manner.

The defendant filed WO stating the present situation which is prayed for insertion in this particular case was well within the knowledge of the plaintiffs and such amendment is only going to create ambiguity in the suit and delay the proceeding of the suit.

Heard the Ld. Advocates of both the sides.

Considered.

On perusal of the same and considering the facts and circumstances of the case this Court is of the view that the petition is required to be allowed as the same is not going to change the nature and character of the suit property and it would help in proper adjudication of the suit but the said facts were well within the knowledge of the plaintiffs at the time of filing of the suit as appears from the materials on record, so the same is allowed with a cost of Rs. 1000/- to be paid by the plaintiffs to the defendant.

Hence, it is,

ORDERED

that the petition dated 19-11-2022 under O. 6 R. 17 is hereby considered and allowed with cost.

To 30-09-2023 for hearing of filing additional WS by the defendant , if any and report of Advocate Commissioner and payment of cost of Rs. 1000/- by the plaintiffs to the defendant.

D/A is directed to send a reminder to the concerned Advocate Commissioner in this regard to file the report by the next date fixed.

**Civil Judge (Junior Division),
Kalimpong**

