

M/L - 24
07.01.2025
Court. No. 5
S.Kundu

C.O. 1317 of 2024

**Sri Rabi Sankar Dutta & Anr.
Vs.
Bijoy Krishna Seva Samity & Ors.**

Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. Tapas Chatterjee,
Mr. Rudranil Das,
Mr. Soumava Santra

...for the petitioners.

1. Challenging the order dated 14th February, 2023 and order dated 4th January, 2024 both passed by the learned Civil Judge (Junior Division), 2nd Court, Howrah in Title Suit No. 215 of 1995, the instant revisional application has been filed.
2. Mr. Mukherjee, learned advocate for the petitioners by drawing attention of this Court to the judgment and decree dated 27th November, 2019 passed in S.A. 176 of 2008 and the application appearing at page 47 of the revisional application would submit that in terms of liberty reserved in favour of the petitioners vide judgment and decree dated 27th November, 2019, the petitioners had duly notarised the application praying for amendment on 23rd December, 2019. According to the petitioners, the Trial Court Records were received by the Civil Judge (Junior Division), 2nd Court, Howrah on 28th January, 2020.

3. Having regard thereto, he would submit that the application seeking amendment was filed within the time prescribed by the judgment and decree dated 27th November, 2019. Unfortunately, during the pandemic the suit was dismissed. At the instance of the petitioners by order dated 30th June, 2022 the order dismissing the suit was recalled and the suit was restored to its original form. However, since the application filed by the petitioners for amendment was not considered, the petitioners had taken out an application under Section 151 of the Code of Civil Procedure 1908, which came to be rejected by order dated 4th January, 2024. Mr. Mukherjee would submit that the only ground based on which the aforesaid application has been dismissed is failure to comply with the direction for filing of amendment application within the time specified in the judgment and decree dated 27th November, 2019. According to Mr. Mukherjee though, the application for amendment was notarised and kept with the record much prior to the receipt of the Trial Court Record, the learned Court had ignored such aspect.
4. Having heard the learned advocate for the petitioners, I am of the view that the aforesaid revisional application is required to be heard. Pending hearing of the application there shall be a stay of all further

proceedings in T.S. No. 215 of 1995 till the end of March, 2025 or until further order whichever is earlier.

5. The petitioners are directed to serve a copy of the aforesaid application on the opposite parties.
6. List this matter in the monthly list of March, 2025 under the heading “Returnable Motion”.

(Raja Basu Chowdhury, J.)