

Party Name : RATAN DEBNATH Vs SMT. SANDHYA DEB ROY & ORS

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THE HONBLE MR JUSTICE U. B. SAHA

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These two revision petitions are taken up together as they relate to the same suit being TS 86/2013.

The revision petitions are filed challenging the order dated 26.08.2014 passed by the Civil Judge, Jr. Division, Court No. 2, Agartala, West Tripura (for short, "trial court") in Misc. (J) 27/2014 and Misc. (J) 28/2014, both arising out of TS 86/2013, whereby the trial court rejected the prayer of the petitioner, plaintiff in the suit, for amendment of the plaint and addition of parties, respectively.

Heard Mr. Suman Bhattacharji, learned counsel for the petitioner as well as Mr. DR Choudhury, learned counsel for the respondents.

As agreed to by the learned counsel for the parties, both the revision petitions are taken up for disposal at the admission stage itself.

Mr. Bhattacharji submits that the amendment was filed incorporating the new development, particularly, the fact that during pendency of the suit, the defendants entered into an agreement with some promoters for construction of building adjacent to the suit land and unless those promoters are added as party, then at any point of time, those promoters may try to evict the plaintiff-petitioner.

On the other hand, Mr. Choudhury submits that the promoters have already completed the construction and there is no possibility of disturbing the plaintiff-petitioner.

This Court has perused the proposed amendment. According to this Court, the proposed amendment would not in any way change the nature and character of the suit. Thus, it would be proper to allow the same.

The trial court while rejecting the prayer for amendment opined that the averments made in the amendment petition has no bearing on the claim of the plaintiff-petitioner as he was only claiming his right to possession.

Whatever may be the prayer, question is whether in absence of the promoters as party in the suit, they would disturb the possession of the plaintiff-petitioner?

Considering the entire facts and circumstances, the prayer for amendment is allowed and the petitioner is directed to submit amended plaint before the trial court within a period of one month from today and then the trial court shall give an opportunity to the defendants including the newly added defendants, to file their additional written statement/written statement and thereafter shall proceed with the suit in accordance with law.

With the aforesaid order both the revision petitions are allowed and accordingly disposed of.