



ML 20.09.
165 2022
AG
M
Ct
07

C.O. 2126 of 2022

**Sri Manik Lal Bera
Vs
Sri Nitai Maity**

Mr. Soumik Ganguly,
Mr. Sayan Roy ... For the petitioner.

The subject matter of challenge in this revisional application is against the rejection of a prayer for amendment.

Mr. Soumik Ganguly, learned advocate appearing for the petitioner submits that the court below has erroneously rejected the prayer for amendment, taking the ground limitation prescribed under West Bengal Land Reforms Act.

It is thus submitted by the petitioner when an application for amendment is made beyond the period of limitation, the court is to consider whether by refusing such amendment an injustice will be made to the party seeking the amendment and also whether by granting such amendment, an injury would be caused to the other side.

The test thus prescribed in the decision reported in **1978 SCC OnLine Cal 208** delivered in the case of **Sri Debabrata Bhowmick vs. Sm. Nani Bala Some** has not been complied in the instant case regarding the



limitation point, learned advocate for the petitioner argues.

The law point thus raised as mentioned above, needs to be addressed touching upon the merits of the case.

Since the court below has set the matter for argument, there lies the necessity of granting interim protection at least for limited period of time.

Let there be an order directing stay of all further proceedings, pending in the court below till the 2nd weeks of Puja Vacation of this Court

Petitioner is directed to serve the copy of the application upon the opposite party and his learned advocate appearing in the Court below, by speed post with A/D, and furnish affidavit of service on the next returnable date.

List the matter one week after Puja vacation.

(Subhasis Dasgupta, J)