

ORDER SHEET
WP 45 of 2018
GA 1328 of 2019
With
GA 1381 of 2019
WP 388 of 2018
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

Shiromani Flat Owners' Association & Ors.
Vs.
Kolkata Municipal Corporation & Ors.
With
Mayavati Trading Private Limited
Vs.
Kolkata Municipal Corporation & Ors.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 25th July, 2019.

Appearance:

Mr. Partha Sarathi Sengupta Sr. Adv.
Mr. Shyamal Sarkar, Sr. Adv.
Mr. Sakya Sen, Adv.
Ms. Reshmi Ghosh, Adv.
Mr. Arindam Chandra, Adv.
Mr. Atish Ghosh, Adv.
...for the petitioner in WP 45 of 2018.

Mr. Jayanta Mitra Sr. Adv.
Mr. Utpal Bose, Sr. Adv.
Mr. Reetobrata Mitra, Adv.
Mr. Labanyasree Sinha, Adv.
...for the respondent no. 10 in WP 45 of 2018
and for the respondent No. 6 in WP 388 of 2018.

Mr. Utpal Majumder, Adv.
Mr. P. Kar, Adv.
Mr. Abhishek Banerjee, Adv.
Mr. Sagnik Majumder, Adv.
...for the petitioner in WP 388/2018.

Mr. Joydip Kar, Sr. Adv.

*Mr. Gopal Chandra Das, Adv.
Mr. Debangshu Mondal, Adv.
...for the K.M.C. in WP 45 of 2018.*

*Mr. Alok Kr. Ghosh, Adv.
Mr. Arijit Dey, Adv.
...for the KMC in WP 388/2018.*

The petitioners in both the writ petitions are challenging the sanction of a building plan granted by the Kolkata Municipal Corporation (KMC) in a portion of "Tripura House" at premises no. 59, Ballygunge Circular Road, Kolkata - 700 019.

The petitioners claim that the property in question has been listed as a heritage property by KMC and construction in the said premises is not permissible in accordance with the KMC Act 1980 as amended and the Rules framed thereunder. Affidavits have been exchanged in both the writ petitions.

The records relating to the grant of sanction were directed to be produced in Court by an order dated 18th June, 2018. The Court by an order dated 27th June, 2018 granted liberty to take inspection of the said records. The parties duly inspected the records in the presence of the officer of the Court. Hearing in the matter commenced on 18th June, 2018. Due to change of determination hearing could not be concluded.

The matter thereafter appeared in the list of this Court and hearing commenced on 14th March, 2019. The petitioners in respect of WP 45 of 2018 completed the arguments on 27th March, 2019 and KMC commenced argument on the same date.

On 2nd April, 2019 a prayer was made before the Court for production of the records which were kept in the safe custody of the Registrar of the Court and all the parties prayed for inspection of the documents and for taking copies thereof. On the prayer of the parties the Court directed photocopies of the required documents available in the records to be handed over to the parties. Hearing of the matters resumed once again on 23rd April, 2019.

KMC defended the sanction plan. The primary contention of KMC was that the West Bengal Heritage Commission had given a nod for sanction of the building plan in a portion of the said premises. Though KMC is the final authority to sanction a building plan but as the premises in question is a grade "A" heritage property accordingly they have to rely upon the recommendation of the West Bengal Heritage Commission. When the Heritage Commission recommends the sanction of the building plan in a heritage premises, then KMC hardly have a role to play.

On 19th June, 2019 after conclusion of the submission of KMC an oral prayer was made by the petitioners for adding the West Bengal Heritage Commission as party respondent in the matter. The prayer was vociferously opposed by the private respondent and KMC. The petitioners were given liberty to take out necessary applications.

On 20th June, 2019 the petitioners in WP 45 of 2018 filed an interlocutory application for addition of the West Bengal Heritage Commission and its Chairman as party respondents and for amendment of the pleadings and prayers of the writ petition. On 25th June, 2019 the petitioners in WP 388 of 2018

followed suit. The prayer of the petitioners was very hotly contested by both the private party and KMC.

It has been stated in the application that at the time of inspection of the documents they came across three letters dated 4th February, 2015, 20th April, 2017 and 2nd May, 2017 all issued by the Chairman of the West Bengal Heritage Commission purportedly approving the construction plan. The petitioners submit that the said letters are wholly illegal, without jurisdiction, null and void and should be set aside. By way of abundant caution the petitioners have been advised to seek necessary amendments to the writ petition.

For the purpose of effective and complete adjudication of the issues involved in the writ petition and in the interest of justice the petitioners pray for adding the West Bengal Heritage Commission and its Chairman as party respondents. It has been averred that there has been no delay and/or laches on the part of the petitioners in seeking the amendments. The proposed amendments will not change the nature and character of the writ petition in any manner whatsoever. The primary prayers of the writ petition remain the same.

The petitioners rely upon the decision delivered by the Hon'ble Supreme Court of India in the case of *Haridas Ali Das Khadani & Ors. Vs. Godrej Rustom Kermani* reported in (1984)1 SCC 668. While deciding the said case the Court took into consideration the decision delivered by the Supreme Court in the case of *Pirgonda Hongonda Patil vs Kalgonda Shidgonda Patil* reported in AIR 1957 SC 363 wherein the Court held that, the test for allowing the amendment is to find out whether the proposed amendment works in serious injustice to the other

side. The Court should be extremely liberal in granting the prayer for amendment of pleadings, unless, serious injustice or irreparable loss is caused to the other side.

The petitioner also relies upon the judgment delivered by the Hon'ble Division Bench of the Andhra Pradesh High Court in the matter of *Mohd. Afzal Khan vs. District Collector* reported in *1996 SCC Online AP 196* wherein the Court held that it is indeed a mistake of law to defend pleadings for the purpose of a writ petition, as pleadings in a Suit or a civil proceeding, particularly when plenary power under Article 226 of the Constitution of India is exercised against any order or direction of any Authority or Tribunal subordinate to the Court for the limited purpose of judicial review. One can always bring to the notice of the Court anything done without jurisdiction, or done without any authority of law or otherwise a ground to show that the action impugned or besides the action impugned other actions in the proceeding before the Court, are hit by the principles of malice in law or malice in fact or are violative of the principles of natural justice.

The learned advocate appearing on behalf of the private respondent strongly opposes the said applications for amendment and addition of party. It has been submitted that the said application is akin to an application made under Order 6 Rule 17 of the Code of Civil Procedure. It has been submitted that under the un-amended provisions of Order 6 Rule 17 the Court may, at any stage of the proceedings, allow either party to alter, amend the pleadings as may be necessary for the purpose of determining the real questions in controversy. The

said provision has been amended in the year 2002 and limitation has been imposed upon the Court in applying the said provision by adding the proviso to the original provision. Due to the said proviso an obligation has been cast on the Court not to allow applications for amendment after the trial has commenced, unless of course, the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

It has been strongly contended that the ground for allowing the application for amendment are extremely restricted. In the instant case the trial commenced with the filing of the affidavits in opposition on 4th June, 2018. Thereafter a reply has also been filed on 12th June, 2018. Records were directed to be produced in Court and inspection of the said records was made. The answering respondent in their affidavit in opposition stated that the West Bengal Heritage Commission approved the construction of the proposed multi-storied building on the plot in question.

The Court by order dated 18th June, 2018 directed KMC to produce all records pertaining to the grant of sanction of the building plan. By an order dated 27th June, 2018 the Court permitted all the parties to take inspection of the records which were in the custody of the Registrar. As per the direction of the Court the advocate on record of the parties inspected the records in the first week of July, 2018. In spite of having knowledge of the said letters way back in July, 2018 the petitioners did not choose to add West Bengal Heritage Commission as party respondent. The petitioners sat on the fence for a considerable period of time. Even at the hearing stage the petitioners filed supplementary affidavit

disclosing documents supplied to them by KMC in response to an enquiry made under the Right to Information Act. The Court permitted the respondents to file affidavit in opposition in connection with the said supplementary affidavit. In the said affidavit in opposition the answering respondent disclosed the letter issued by the West Bengal Heritage Commission. Even thereafter the petitioners did not feel it necessary to incorporate West Bengal Heritage Commission as party respondent.

It has been submitted that the petitioners acted in a very casual and cavalier manner. They were all along aware of the existence of the purported documents. They did not exercise due diligence in putting forth their claim. The proviso to Order 6 Rule 17 puts an embargo on the Court to allow applications after trial has commenced. The same can be allowed only if the Court comes to the conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial. As the petitioners had all the documents within their knowledge prior to commencement of the arguments in the matter accordingly the application for addition and for amendment is liable to be rejected.

It has further been submitted that according to Rule 53 of the Rules relating to Application under Article 226 of this High Court the provisions of the Code of Civil Procedure in regard to suit shall be followed, as far as it can be made applicable, in all proceedings for issue of a Writ.

It has been submitted that the documents in question were available to the petitioners at least a year back. There has been gross unexplained delay in filing

the instant application. No prayer or pleading for condonation of delay has been made. The answering respondents will be severely prejudiced in the event the application is allowed as the same will lead to further delay in the hearing of the writ petition.

The respondents rely upon the decision delivered by the Hon'ble Supreme Court in the matter of Vidyabai and Others vs. Padmalatha and Another reported in (2009)2 SCC 409 paragraphs 10, 11, 15 and 19 wherein the Court held that it is the primal duty of the court to decide as to whether such an amendment is necessary to decide the real dispute between the parties. Only if such a condition is fulfilled, the amendment is to be allowed.

The answering respondent also relies upon an unreported judgment delivered by the Hon'ble Division Bench of this Court on 2nd April, 2019 in CO no. 2868 of 2017 in the matter of *Sri Sri Ishwar Radha Behari Jew and Sri Sri Ishwar Shalgram Jew* represented by *Basudev Das vs. Malati P. Soni* wherein the Court explained the expression "commencement of trial" used in the proviso to Order 6 Rule 17 Civil of Procedure Code. The Court held that the date when the Court first applies its mind after the affidavit of evidence is filed and when the first witness proves his affidavit of evidence or such witness seeks to prove a document for it to be tendered in evidence or the cross-examination of such witness begins, whichever is earlier.

The learned advocate appearing on behalf of the KMC submits that for the purpose of entertaining the instant application the Court has to be satisfied that in spite of exercise of due diligence the amendments could not have been made

earlier. Had the application for amendment been made prior to the initiation of the trial then the liberal approach of the Court may be justified. The moment the trial has commenced the Court is restrained from entertaining applications for amendment. The documents relied upon by the petitioner at the time of arguments included the documents issued by the West Bengal Heritage Commission. The petitioners all along were in possession of the said documents. When the project is midway the petitioners are resorting to dilatory tactics to delay the proposed construction of the multi-storied building. It has been submitted that the pleadings that have been made in the application for amendment is insufficient and the application for amendment is liable to be dismissed.

In reply to the said submissions made on behalf of the respondents the petitioners submit that trial in connection with a suit and the same in connection with a petition under Article 226 of the Constitution of India are completely different. In a suit there is scope for framing of issue. There is a stage for discovery of documents. The same is not available to proceedings under Article 226. Writ petitions are considered on the basis of the records and documents that are annexed with the petition. Neither the Corporation nor the private respondent disclosed the documents in question in their opposition. Though the petitioners did have a glance of the documents at the time of taking inspection but the learned advocate on records of the parties were not permitted to take notes of the said documents. In the absence of the documents in its entirety it was not possible for the petitioners to apply their mind and take necessary steps

with regard to the same. It is only after the documents were permitted to be handed over to the parties under order of Court did the petitioners get the knowledge of the said documents and immediately thereafter took steps for bringing the same on record by filing the instant application for amendment. It has been submitted that no prejudice whatsoever will be caused to the respondent if the West Bengal Heritage Commission is added as a party respondent. The same will prevent multiplicity of proceedings otherwise the petitioner may have to file a separate writ petition challenging the act of the West Bengal Heritage Commission as well as KMC leading to multiplicity of proceedings, which may be avoided if the West Bengal Heritage Commission and its Chairman are added as party respondent and necessary amendments be made in the pleadings and the prayers of the instant writ petition. The learned advocate submits that no further argument will be made on behalf of the petitioner even if the application for amendment is allowed and their submissions may be treated as concluded.

The petitioner in GA 1381 of 2019, WP 388 of 2018 submits that the proviso to Order 6 Rule 17 Code of Civil Procedure will not stand as a bar in as much as there was no "commencement of trial" in this case. It has been submitted that though affidavits have been exchanged in between the parties but hearing of the case has not been commenced. In such a situation there is no impediment on the part of the Court to add the West Bengal Heritage Commission and its Chairman as party respondent and to make the necessary amendments in the pleadings.

The learned advocate appearing on behalf of the petitioner in GA 3181 of 2019 adopts all the submissions that have been advanced by the petitioners in GA 1328 of 2019. Over and above the said submissions the learned advocate intends to rely upon certain decisions of the Hon'ble Supreme Court which according to him will be material for the purpose of effective adjudication of the lis. The judgments relied upon by the petitioner are as follows:-

(1) *Fritiz T. M. Clement & Anr. vs. Sudhakaran Nadar & Anr.*; (2002)3 SCC

605 paragraphs 4 and 5 wherein the Court held that amendment may be allowed if the proposed amendments are not impermissible in law. The pleadings in the amendment application should not have the effect of retracting from any submissions made in the original plaint. At first place, it might appear that by the proposed amendments which undoubtedly expand the length of the plaint and seeks substitution of certain figures in the relief portion, no pleas and reliefs are sought to be raised; but, on deeper analysis it is not so. The original plaint is rather cryptic and lacking irrelevant particulars subsequent care was not taken in drafting the plaint. The party should not be penalized for the action.

(2) *Punjab National Bank vs. Indian Bank & Ors.*; (2003)6 SCC 79

paragraphs 10, 13 and 16 where the Court permitted the amendment to be made after nine years by holding that the amendments do not really introduce a new case, and the application filed by the appellant does not show that he was not taken by surprise nor did he have to meet a

new claim set up for the first time after expiry of the period of limitation. The amendments only clear the confusion, if any, as to the terms in which the relief is sought.

(3) *North Eastern Railway Administration, Gorakhpur vs. Bhagwan Das (dead)* by LRS; (2008)8 SCC 511 paragraph 16 wherein the Court held that the principles which governed the question of granting or disallowing amendments under Order 6 Rule 17 Civil Procedure Code, before and after amendment, postulates amendments of pleadings at any stage of the proceedings. It held that the principles laid down in the case of *Pirgonda* (supra) still holds good in the field wherein it was held that all amendments ought to be allowed which satisfied to conditions- (a) of not working injustice to the other side and (b) of being necessary for the purpose of determining the real question in controversy between the parties. Amendments should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendments would cause him injury which cannot be compensated by costs.

(4) *Abdul Rehman & Anr. vs. Mohd. Ruldu & Ors.*; (2012)11 SCC 341 paragraphs 10, 13, 15, 16 and 17 wherein the Court held that it is clear that parties to the suit are permitted to bring forward amendment of their pleadings at any stage of the proceeding for the purpose of determining the real question in controversy between them. The Courts have to be liberal in accepting the same, if the same is made prior to the

commencement of trial. If such application is made after commencement of the trial, in that event, the Court has to arrive at a conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial.

- (5) *Mahila Ramkali Devi vs. Nandram (dead)* through Legal Representatives & Ors.; (2015)13 SCC 132 paragraphs 18 to 23 wherein the Court held that it is well settled that rules of procedure are intended to be a handmaid to the administration of justice. A party cannot be refused just relief merely because of some mistakes, negligence, inadvertence or even infractions of rules of procedure. The Court always gives relief to amend the pleadings of the party, unless it is satisfied that the party applying was acting mala fide or that by his blunder he had caused injury to his opponent which cannot be compensated by an order of cost.

The learned counsel appearing on behalf of the private respondents submits that the petitioners have tried to make out a new cause of action in their application for addition of party as well as amendments of the pleadings. It has been submitted that as both the writ petitions are being heard analogously it cannot be submitted that trial of the proceeding in case of the petitioner has not commenced. As both the writ petitions were heard together commencement of hearing in one writ petition would necessarily mean commencement of trial.

I have heard the detailed submissions made on behalf of all the parties and perused the decisions relied upon by them. The issue is whether the application

made by the petitioners, for amendment of the pleadings and addition of party, be maintainable and can be entertained, after the petitioners as well as KMC concluded their arguments in one of the writ petitions, when both the writ petitions are being heard analogously?

The parties proposed to be added are (1) West Bengal Heritage Commission and (2) the Chairman, West Bengal Heritage Commission.

KMC sanctioned a building plan for construction of a multi-storied building in a portion of a property which is admittedly included in the list of heritage properties maintained by the KMC. The petitioners submit that the same is not permissible and grossly illegal. According to KMC the plan has been sanctioned on the basis of the approval/recommendation by the West Bengal Heritage Commission.

Once the approval has been given by the West Bengal Heritage Commission, KMC is bound to act according to the said approval. KMC did not have any other option but to sanction the plan once the same has been approved by the West Bengal Heritage Commission.

KMC has tried to defend their action of sanctioning the building plan in question by submitting that the sanction has been made in accordance with the provisions of the KMC Act, 1980 as amended and in accordance with the Rules framed thereunder. The Chairman, Heritage Conservation Committee is a party to the writ proceeding but the Chairman, West Bengal Heritage Commission is not. To determine the issue in question the presence of the West Bengal Heritage Commission and its Chairman is very essential. Without their presence the Court

will be left fumbling with queries and hunting for answers which may be extremely vital for the purpose of effective adjudication of the issues raised in the writ petition.

The question is whether the said parties can be added and the pleadings amended at this stage.

The Supreme Court has consistently held that in connection with a suit, the amendment of the pleadings may be made at any stage, for the purpose of determining the real questions in controversy between them. If the amendment is sought to be made prior to the commencement of the trial the Courts have to be liberal. But in the event the same is made after commencement of the trial then the Court has to arrive at a conclusion that in spite of due diligence the party could not have raised the matter before commencement of the trial.

Submission has been made that the proceedings under Order 6 Rule 17 Civil Procedure Code is akin to the interlocutory application filed by a party for amendment of the pleadings in a writ petition. Stress has also been placed on Rule 53 of the Rules of the High Court at Calcutta with regard to Application under Article 226 of the Constitution of India. The expression used in Rule 53 "provisions of Civil Procedure Code will, as far as practicable, be applicable" indicates that the same is only for the purpose of guidance. The same is absolutely directory and not mandatory. There is no hard and fast rule that application for amendment at this stage of a writ proceeding is either not maintainable or not permissible.

In such a situation the Court has to come to a specific conclusion based upon the pleadings made in the said application, submissions made on behalf of the parties and the implication of the application that has been made and thereafter come to a decision either to allow the amendment or to refuse it. The dictum of the Hon'ble Supreme Court it to be kept in mind at the time of arriving at the said conclusion. In the event the Court arrives at a conclusion that the amendments are absolutely necessary for adjudication of the real issues in dispute then the Court has to consider whether the same would cause any prejudice to the parties opposing the said amendment. It has also to be taken into consideration whether providing costs to the opponents will act as a remedy to the prejudice suffered by them.

The fact that the property in question is a heritage property was known to each and every party for that was the very basis of opposing the sanction plan, as according to the petitioners, KMC could not have sanctioned the plan for construction of a multi-storied building on a portion of the heritage property. The fact being known to everybody the West Bengal Heritage Commission and its Chairman ought to have been made parties at the time of filing of the writ petition. In fact, the Heritage Commission has a major role in approving the construction plan in respect of heritage properties. In the absence of approval of the construction plan by the Heritage Commission, KMC cannot sanction the plan at all. The decision to sanction the building plan by KMC hinges upon the approval of the Heritage Commission.

In my opinion, the parties ought to have been more careful at the time of drafting the case and proper care ought to have been taken for impleading the necessary parties. I strongly feel, that, had due diligence been taken at the time of preparation of the brief, this omission could have been avoided. The petitioner ought not to have waited for conclusion of the submission of the KMC and then come up with an application for adding parties and for amending the pleadings.

The grounds and the prayer of the writ petition for setting aside the impugned sanction plan though remains the same, but the scope of the writ petition gets widened.

In WP 388 of 2018 the petitioner has already made a prayer for issuance of a writ of Mandamus commanding the Heritage Commission to withdraw, cancel and/or rescind the approval of the project at the heritage premises. A specific ground that Heritage Commission was wrong in approving the project has also been taken in the writ petition. But formal impleading of the West Bengal Heritage Commission was inadvertently not done.

The writ petitions were filed in the year 2018 and initially taken up for consideration by a different Court. The records of the case was called for and kept in the custody of the Registrar. Inspection of the documents was also taken. The argument of the petitioner that though they had the knowledge of the documents but as they did not have the copy of the alleged documents they could not challenge the same, in my opinion, is not a good ground for making application for amendment at such a delayed stage.

The documents in question remained in the custody of the Registrar for nearly a year. Had the petitioners exercised due diligence copies of the documents could have been obtained with the leave of the Court. There was no requirement of the petitioner to wait for the matter to reach the stage of final hearing. The Corporation has already concluded their arguments, and accordingly, the stand taken by them to oppose the application, that they have disclosed their defense is justified.

In a highly contested proceeding the opponent will rightly oppose the incorporation of any fact or pleading, absence of which may strengthen their stand. A party will always prefer to have a weak contender rather than a strong opponent. The respondents will always try to sail over the weak points relied by the petitioner. No respondent will like to face a very strong case on merits.

It has to be kept in mind, that in the instant case, the authority granting sanction of the plan, as well as, the person in whose favour the plan has been sanctioned, both are parties. The private party in whose favour the plan has been sanctioned though has not commenced arguments as yet, but it is implied, that they will heavily rely upon the submissions made on behalf of KMC. It will be common ground that the construction plan has been sanctioned by the KMC strictly following the provisions of the Act and the Rules.

The private party may have a genuine grievance of being prejudiced on the ground of delay. It has been submitted that they have invested huge sum of money in the process of getting the plan sanctioned, and the construction is made in accordance with the said plan. KMC however, does not appear to be

prejudiced in any manner, in the event the applications for addition of party and the amendment of pleadings are allowed.

Will the plea of prejudice raised by the private respondent stand in the way of allowing the application for amendment? Possibly not. The sanction plan is under challenge. The private respondents in the absence of any stay order in the pending writ proceedings chose to proceed with the construction. If the Court ultimately comes to the conclusion that the plan has been validly sanctioned then the construction made by the private respondent will be saved, but if the Court comes to a contrary conclusion then necessary consequences will follow. No extra prejudice or injustice will be caused to the respondents by adding the West Bengal Heritage Commission and its Chairman as party respondent in the matter. There is no bar in proceeding with the writ petitions even without the proposed amendments, but in the absence of the said parties the real issue in controversy may not be adjudicated effectively. It may also happen that by adding the proposed parties the private respondent may get an extra support from them as the Heritage Commission has approved the construction plan in respect of the heritage property.

The Hon'ble Supreme Court in the case of Mahila Ramkali Devi (supra) categorically held that a party cannot be refused just relief merely because of some mistake, negligence, inadvertence or even infraction of rules of procedure. The Court can give relief unless it is satisfied that the party applying was acting mala fide or his action has caused injury to the opponent which cannot be compensated by an order of costs.

In the matter of Vidyabai (supra) the Hon'ble Supreme Court held that the primary duty of the court to allow an amendment is to decide whether the additional pleadings will be necessary to decide the real dispute between the parties.

The proposed amendment though expands the scope of the writ petition to some extent but the same definitely does not give rise to a fresh cause of action. The parties are always at liberty to challenge any act or action on the part of a statutory body if the same appear to be illegal or arbitrary. The petitioners can very well challenge the action of the West Bengal Heritage Commission in recommending/approving the construction plan in respect of a heritage property by filing a separate writ. The same will give rise to multiplicity of proceedings, which will ultimately cause more delay in deciding the real issue if the applications for addition of party and amendment of the pleadings are not allowed at this stage. The same will cause more prejudice to the private respondent.

The submission of the respondent that the writ petition ought to include the whole claim which the petitioner is entitled to in respect of the cause of action is settled law. In the instant case the final relief which the petitioner is seeking is cancellation of the sanction plan. The claim of the petitioner accordingly will not be altered or no fresh claim will be added in the event the connected applications are allowed. The petitioners are merely adding grounds, which according to them, will come in aid for obtaining the final relief as claimed by them.

In view of the discussions made hereinabove and in line with the dictum laid down by the Hon'ble Supreme Court, in my opinion, the applications for addition of party and amendment of pleadings are liable to be allowed subject, however, to depositing a sum of Rs. 10,000/- by each of the petitioners in the office of the Registrar (Original side), High Court Calcutta within seven days. The Registrar shall invest the money in a short term, interest bearing account and renew the same at periodic intervals. In the event the petitioners succeed in the writ petition they shall be entitled to refund of the principal amount along with the interest accrued thereon. If the petitioners are unsuccessful they will not be entitled to refund of any amount. In that case, the Registrar shall take steps to transmit the entire accumulated amount in favour of the State Legal Services Authority, West Bengal.

The department is directed to carry out the necessary amendments in the cause title, body and prayer of the writ petition within a fortnight from the date of depositing the aforesaid amount in the office of the Registrar (Original Side).

The petitioners are directed to serve a copy of the amended writ petition upon all the respondents within a week after the amendments have been carried out by the department.

Liberty to mention the matter before the appropriate Bench.

The matter will not be treated as part in heard.

GA 1328 of 2019 and GA 1381 of 2019 are disposed of.

Urgent Photostat certified copy of this order be given to the parties, if applied for, on compliance of usual legal formalities.

(AMRITA SINHA, J.)