

AD. 7.
July 6, 2021.
MNS.

C. O. No. 3087 of 2019
(Via video conference)

Smt. Bimala Devi Manot and others
Vs.
Mr. Sailesh Bose

Mr. Arik Banerjee,
Mr. Bajrang Manot

... for the petitioners.

Affidavit-of-service filed in Court today be
taken on record.

Despite service, none appears on behalf of
the defendant-opposite party, although the
plaintiffs-petitioners are represented through
counsel.

Learned counsel for the petitioners
contends that the trial court, although allowing a
typographical amendment sought by the
petitioners, refused to permit another amendment
sought by the same application under Order VI
Rule 17 of the Code of Civil Procedure, whereby
the petitioners sought to introduce the fact that
the petitioners have filed another suit against a
different tenant in respect of the first floor of the
present suit premises.

It is contended that, in view of the defendant-opposite party having categorically denied in detail the personal requirement of the petitioners and their family, it is all the more necessary to show that the petitioners genuinely require the property and have been compelled to file another suit against a different tenant as well.

That apart, the ground assigned by the learned trial judge in refusing the said portion of the amendment is *de hors* the law, since the trial court held that such fact should not be allowed to be incorporated at any cost because it would create another cause of action and another ground for eviction of the defendant, which will change the nature of the total suit.

On the face of it, the said reasoning is fallacious in view of the pleadings regarding institution of another suit, sought to be incorporated by way of amendment, being obviously intended to fortify the original ground of reasonable requirement, as already taken by the plaintiffs in their original plaint and is a mere attempt to bring on record in all facts relevant to adjudication of the present suit.

Since it is well-settled that courts should be liberal in granting amendments, particularly

those which are based on the rudiments already found within the four-corners of the original pleadings, there was no justification for the trial court to refuse the second portion of the amendment sought by the plaintiffs-petitioners in their plaint.

Accordingly, C. O. No. 3087 of 2019 is allowed, thereby modifying the impugned order to the extent that all the amendments sought by the plaintiffs-petitioners in their application under Order VI Rule 17 of the Code, as annexed at page 62 of the instant revisional application, stand allowed.

The plaintiffs-petitioners shall file their amended plaint accordingly in the trial court within a fortnight from date. Additional written statement, if any, restricted to such amended pleadings, shall be filed by the defendant-opposite party within a fortnight thereafter.

The parties as well as the court below shall act on the written communication of the learned advocates for the petitioners, to be accompanied by a server copy of this order, without insisting upon prior production of a certified copy thereof.

The petitioners shall communicate this order to the court below as well as to the learned

advocate appearing for the defendant-opposite party in the court below at the earliest to ensure due compliance of the order.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)