

03.10.2023  
Court No. 19  
Item no.25  
CP

C.O. No. 1218 of 2023

Md. Yusuf

Vs.

Mustafizur Rahaman

Mr. Manas Kumar Das

.....for the petitioner.

The revisional application arises out of an order dated February 1, 2023, passed by the learned Civil Judge (Junior Division), 1<sup>st</sup> Court, Kandi in Other Suit No. 12 of 2019.

By the order impugned, the learned court below rejected the application for amendment of the written statement. According to the learned court, at the stage of evidence of DW, amendment sought for was only to delay the trial. Further, the facts which were sought to be incorporated were within the knowledge of the defendant, but the defendant failed to exercise due diligence. The belated application for amendment could not be allowed.

This court has considered the nature of the amendment and the schedule of the amendment application.

The defendant sought to incorporate the following :-

- a) Names of the shops (wholesale and retail) being run by the father of the plaintiff.

b) Employment of the plaintiff in a panchayat office.

Considering the written statement, it appears that the employment of the plaintiff in a panchayat office has no bearing in the suit. The suit is for eviction of a trespasser. Even though there are averments that the property was required for the business of the father of the plaintiff, the father of the plaintiff is not a panchayat employee.

Secondly, the fact that the plaintiff's father carries on other businesses has been mentioned categorically in the written statement and the names of such outlets and business are also not relevant for the determination of the actual issues between the parties in the suit.

Under such circumstances, the learned court below has not committed any irregularity.

The revisional application is accordingly dismissed.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

**(Shampa Sarkar, J.)**