

October 3, 2023  
Sl. No.33  
Court No.19  
s.biswas

CO 1846 of 2023

*Manik Lal Das*  
*vs.*  
*Soumitra Das and another*

Mr. Rabindranath Mahato  
Mr. Aritra Shakar Ray

... for the petitioner

This revisional application has been filed challenging an order dated April 25, 2023 passed by the learned Civil Judge (Junior Division), Dantan, Midnapore (West) in Title Suit No.237 of 2015.

The learned court below rejected the application for amendment of the written statement on the ground that the defendant was not diligent in filing the said application. The court held that the fact that a dwelling house had been constructed on the land in question with bamboo fencing was known to the defendant. When the evidence of the plaintiff was complete, such application for amendment was filed. The proviso to Order 6 Rule 17 of the Code of Civil Procedure, would operate as an bar.

Although, the law allows amendment of written statements liberally, going by the nature of amendment and the statements sought to be incorporated, the amendment is not required for complete and effective adjudication of the dispute between the parties.

The fact that the defendant no.1 was in possession of the entire 17 decimals had been stated in the written statement. It had been categorically averred that the name of the defendant no.1 was entered in the record of rights, in respect of the property and the defendant no.1 was in possession of the suit property.

Under such circumstances, whether there is a dwelling house with bamboo fencing or not, is not a fact which will be necessary for adjudication of the dispute as the suit is for declaration and injunction and the pleadings of the defendant no.1 in the written statement cover his claim of possession and interest in respect of the disputed property.

The revisional application is thus disposed of.

All the parties are directed to act on the basis of the server copy of the order.

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

**(Shampa Sarkar, J.)**