

D/L- 17
16/04/2025
Ct. No.-6
Aritra

C.O. 708 of 2025

**Ratan Sardar
Vs.
Feluram Sardar & Anr.**

Mr. Sandip Das

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the added defendant and is directed against an order being No.104 dated December 23, 2024 passed by the learned Civil Judge (Jr. Div.), 1st Court, Diamond Harbour in Title Suit No.136 of 2016.

By the order impugned the application for amendment of plaint was allowed.

Mr. Das, learned advocate appearing for the petitioner submits that the opposite party herein filed the application for amendment of plaint at a highly belated stage i.e. after the closure of arguments. He further submits that the plaintiff/opposite parties herein have not given any explanation to satisfy as to why the opposite parties could not file the application for amendment of plaint prior to the commencement of trial. He further submits that the application for amendment of plaint was filed in order to cure the defects which have been pointed out by the petitioner herein at the time of trial of the instant suit. He submits that a right

has already been accrued in favour of the petitioner which could not have been taken away by way of amendment of plaint.

After going through the application for amendment of plaint, this Court finds that the plaintiff/opposite parties herein has sought to correct the erroneous description of the suit property in the schedule of the plaint as well as in the sketch map.

Three Hon'ble Judges of the Supreme Court in the case of ***Sajjan Kumar vs. Ram Kishan***, reported at **(2005) 13 SCC 89** even after holding that the plaintiff ought to have been diligent in promptly seeking the amendment in the plaint at an early stage of the suit, opined that the amendment sought for to correct the erroneous description of the suit property was necessary for the purpose of bringing to the fore the real question in controversy between the parties and the refusal to permit the amendment would create needless complications at the stage of execution in the event of the plaintiff succeeding in the suit.

In the Sajjan Kumar (**supra**) the amendment was also sought for to correct the erroneous description of the suit property. In that case also the defendant therein raised an objection as to such erroneous description of the suit property in their written statement and even after taking note of such fact the Hon'ble Supreme Court was of the view that refusal to

permit the amendment would create complications at the stage of execution.

Though, Mr. Das, learned advocate for the petitioner was right in submitting that the said application was filed at a highly belated stage, but taking note of the fact that the plaintiff/opposite party sought to correct the erroneous description of the suit property by way of amendment, this Court is of the considered view that refusal to permit such amendment would create needless complications at the stage of execution.

For such reason this Court is not inclined to interfere with the order, allowing the amendment of plaint.

With the above observations CO 708 of 2025 stands dismissed.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)