

Court No. 6
(265719)

17.03.2025
(AD 40)
(S. Banerjee)

CO 864 of 2025

Subrata Roy
Vs.
Tapan Ghosh

Mr. Tarak Nath Halder

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated June 27, 2024, passed by the learned Civil Judge (Sr. Division), Sealdah in Money Suit No. 1 of 2020. By the order impugned the application under Order 6 Rule 17 of the Code of Civil Procedure filed by the plaintiff/opposite party herein praying for amendment of the plaint, stood allowed.

Mr. Halder, learned advocate appearing for the petitioner submits by way of proposed amendments, the plaintiff/opposite party herein sought to withdraw the admissions made in the original plaint.

In support of such contention Mr. Halder took this Court through the statements made in the plaint as well as the schedule of the application for amendment of plaint.

After going through the plaint this Court finds that it has been stated therein that Sujoy Ganguly handed over two account-payee cheques in favour of the plaintiff of Rs. 5 lakhs each both drawn on Indian Overseas Bank, Fulbagan Branch.

It has been further stated in the plaint that the plaintiff received a further sum of Rs. 7 lakhs. In paragraph 9 of the plaint it was stated that the plaintiff received gross amount of Rs. 17 lakhs out of Rs. 33,34,000/- and the plaintiff is entitled to Rs. 16,34,000/- as principal amount together with interest of Rs. 2,93,653/-. By way of amendment the plaintiff sought to introduce the fact that the said cheques were not deposited with the bank for encashment at the request of the defendant and Sujoy Ganguly. Another cheque of Rs. 3 lacs was drawn on Indian Overseas bank. The said cheque was thereafter taken back by them and instead thereof Rs. 3,00,000/- was paid by cash. The plaintiff further received Rs. 6,90,000/- by cash on March 22, 2018 and further sum of Rs. 10,000/- by cash on March 23, 2018. Therefore, the plaintiff received total Rs. 10 lakhs out of total outstanding Rs. 33,34,000/-.

After going through the schedule of amendment this Court finds that the plaintiff sought to incorporate the subsequent events by way of

amendment. It does not appear to this Court that the plaintiff sought to withdraw the admission but keeping the admission intact the plaintiff sought to explain the admission by way of amendment.

It is well settled that admission cannot be withdrawn but the same can be explained by way of amendment.

It is also not in dispute that the application for amendment was filed at a point of time when the trial of the suit did not commence. Therefore, the proviso to Order 6 Rule 17 of the Code cannot stand attracted to the case on hand.

For such reasons this Court is not inclined to interfere with the order allowing the application for amendment of plaint. The learned trial Judge has also granted liberty to the defendant to file additional written statement. Therefore, the petitioner cannot be said to be prejudiced in any manner by way of allowing the application for amendment of plaint.

CO 864 of 2025 stands disposed of with the aforesaid observations.

(Hiranmay Bhattacharyya, J.)