

23.04.2025
SL No.148
Court No.22
S.Gayen

CO 931 of 2023
Jahara Bibi & Ors.
Versus
Swapan Kumar Biswas & Anr.

Ms. Sohini Chakraborty
Mr. S. A. Joynal

...for the Petitioners

1. This revisional application has been filed assailing the Order No. 143 dated 14th December, 2022 in connection with Title Suit No. 13 of 2008, wherein the learned Civil Judge (Senior Division), 1st Court, Baruipur allowed one application under Order 6 Rule 17 of the Code of Civil Procedure giving liberty to the defendants to incorporate the proposed amendment in compliance with the provision of Order 6 Rule 18 of the Code of Civil Procedure.
2. None appears on behalf of the opposite parties.
3. Learned counsel appearing on behalf of the petitioners has drawn my attention to the written statement filed by the defendant on 11th April, 2008 as well as amendment application intended to incorporate facts delineated in the schedule to the amendment application, and has contended that all the contents of the proposed amendment are already in the written statement.
4. On careful perusal of the order impugned in this revisional application, I find that the learned Trial

Judge mainly focused on the provision of Order 6 Rule 17 of the Code of Civil Procedure and tried to highlight the purpose of amendment as well as the stage of the suit when proposal for amendment may be considered.

5. The submission advanced on behalf of the petitioner compels me to place both the written statement as well as the proposed amendment in juxtaposition for comparing the contents of the written statement with that of the proposed amendment.
6. After careful perusal of the entire proposed amendment mentioned in the schedule to the application under Order 6 Rule 17 of the Code of Civil Procedure as well as the paragraphs 8, 9, 24 and 29 of the written statement, I find that the contents of the proposed amendment are already in the paragraphs of the written statement mentioned above.
7. Therefore, I find that the learned Trial Judge presumably did not go through the contents of the proposed amendment along with the averments made in the aforesaid paragraphs of the written statement.
8. In the aforesaid view of the matter, I find that the contents of the proposed amendment is absolute identical to the averments made in paragraphs 8, 9, 24 and 29 of the written statement.

9. Regard being had to the above, the order allowing the application under Order 6 Rule 17 of the Code of Civil Procedure permitting the defendants to amend the written statement by incorporating the proposed amendment in the written statement is not at all sustainable in law.
10. As a sequel, the order No. 143 dated 14th December, 2022 stands set aside and the revisional application stands allowed.
11. Considering the long pendency of the suit, the learned Trial Judge is requested to dispose of the suit as expeditiously as possible without giving any unnecessary adjournment to either of the parties.
12. Interim order, if any, stands vacated and connected applications, if any, also stand disposed of accordingly.
13. The learned advocate appearing on behalf of the petitioners is directed to intimate the order to the learned Trial Judge.
14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.
15. Urgent Photostat certified copy, if applied for, be given to the parties upon compliance with all requisite formalities.

(Bibhas Ranjan De, J.)