

Sl.25
17.04.2025
Court No.6
BP

C.O. 1196 of 2025

Dilip Dari
-versus-
Biswanath Hazra

Mr. Nirmalya Kumar Das
Mr. Ujjal Gayen
Mr. Prosenjit Mukherjee
Mr. Jahangir Hossain
..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 being no. 14 dated 24th March, 2025 passed by the learned Civil Judge (Junior Division), Additional Court, Serampore, Hooghly in Title Suit No. 362 of 2024.

By the order impugned the application under Order 6 Rule 17 of the Code of Civil Procedure praying for amendment of plaint stood allowed.

Learned advocate appearing for the petitioner submits that the nature and character of the suit will be changed as a result of the proposed amendment. He further submits that the opposite party herein obtained an order of injunction on the basis of the averment made in the original plaint and for such reason the learned trial judge ought not to have allowed the prayer for amendment of plaint. He further submits that

the application for amendment was filed at a belated stage.

In the application for amendment of plaint it has been stated that due to typographical error the name of one of the vendor of the plaintiff has been wrongly mentioned as “Ramchandra Dari” instead of the actual name “Becharam Dari”. For the purpose of incorporating the correct name of the vendor, the opposite party herein filed an application for amendment of plaint.

After going through the schedule of amendment, this Court is of the considered view that the proposed amendment is necessary for the purpose of correcting the typographical error. Correction of the name of the vendor of the plaintiff would not change the nature of the suit and the same is necessary for deciding the real controversies between the parties in the suit. That apart, the evidence of the suit has not yet started and for such reason the proviso to Order 6 Rule 17 of the Code of Civil Procedure also cannot come in the way of allowing the amendment.

Learned advocate appearing for the petitioner submits that in the ordering part, the learned trial judge has recorded that the prayer of the defendant under Order 6 Rule 17 of the Code of Civil Procedure for amendment of plaint was allowed. The said error is apparent on the face of the record as the learned trial judge was considering an application under Order 6 Rule

17 of the Code of Civil Procedure for amendment of plaint and not the written statement.

For such reason, this Court is not inclined to interfere with the order impugned.

Accordingly, C.O. 1196 of 2025 stands dismissed.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)