

04.12.2025
SL No.2
Court No.6
(gc)

CO 1559 of 2025

Paharpur Builders Private Limited
Vs.
Viswa Ranjan De

Mr. Bodhisatta Biswas,
Mr. Ishan Bhattacharya,
.....for the plaintiff/petitioner.

Mr. Partha Pratim Roy,
Mr. Sunny Nandy,
Mr. Anand Jha,

...for the defendant/opposite party.

1. This matter has been listed today as per the direction of this Court on 3rd December, 2025. Mistakenly, this matter was included in another order. Although, it is a separate matter arising out of a different suit.
2. This is an application challenging the order dated February 7, 2025 passed by the learned First Civil Judge (Sr. Div.), Alipore in Money Suit no. 334 of 2021.
3. By the order impugned, the learned court rejected an application under Order VI Rule 17 of the Code of Civil Procedure. The application was rejected by the learned court on the ground that the defence had been disclosed in the written statement and if the schedule of the amendment was permitted to be incorporated at a belated

stage, the same would cause injustice to the defendant. The suit was filed for recovery of Rs.62,575.46/- along with pendent lite interest and future interest at the rate of 18% per annum from the date of instituting the suit, till the date of recovery of the decretal amount. An amendment was sought for, to incorporate amendments, by enhancing the amount claimed to Rs.1,56,837.68/-, penal interest etc. Further elaboration as to how the said enhanced sum was arrived at, was also sought to be brought on record.

4. According to Mr. Partha Pratim Roy, learned advocate for the defendant the claim was time barred and hence, the amendment should not be allowed. The claims have been made from the month of December 2013 till March 2020 and, thereafter, from April 2020. Mr. Roy submitted that those were additional claims, over and above what was already stated in the plaint, and as such, the barred claims should not be allowed to be incorporated in the plaint.
5. I have perused the contents of the schedule and I prima facie, do not find that the claim is ex facie barred. The plaintiff wanted to enhance the claim on the basis of the calculation made during the period mentioned in the schedule of amendment.

Here, limitation becomes a mixed question of law and facts. In the original plaint, the plaintiff had not mentioned the period for which the claim was made, which in my view, was sought to be corrected by way of amendment. The amendment is bona fide. A justification as to why the claim amount should be Rs.1,56,837.68/- and not as originally pleaded, was offered in the amendment. Although, issues have been framed, this court does not find that the amendment would change the nature and character of the proceeding. The amendment does not take away any admission. It is not contrary to the pleadings.

6. Under such circumstances, the defence disclosed does not seem to be affected in any way. The truth and veracity of the contents of the amendment will have to be proved in evidence. The correctness of the amendments are not for consideration at this stage. Whether the claims are time barred or not, shall also be decided in the trial as an issue. The defendant will also get a chance to file an additional written statement dealing with the contents of the amendment.
7. Under such circumstances, the revisional application is allowed.
8. The order impugned is set aside.

9. The amended plaint shall be accepted by the learned court, upon the petitioner make up payment of cost of Rs.10000/- to the defendant. Such cost shall be paid within three weeks from date of communication of this order. The defendant shall file additional written statement within the time to the fixed by the court, upon acceptance of the amended plaint.
10. The court will fix a date for filing of the additional written statement.
11. This court does not make any observation made by this court is restricted to the disposal of the revisional application.

(Shampa Sarkar, J.)