

CO 1608 of 2025

Neetu Surana
vs.
Trinath Shaw & Ors.

Mr. Rohit Das
Mr. Preetam Mazumdar
Mr. Anugraha Sundas
....for the Petitioner

Mrs. Sima Chakraborty
....for the opposite parties

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated February 11, 2025 passed by the learned Civil Judge (Junior Division), 5th Court at Alipore in Title Suit No. 17208 of 2013. By the order impugned the application for amendment of plaint was allowed.

The learned advocate appearing for the petitioner submits that the facts which the opposite parties sought to incorporate by way of amendment of plaint were well within the knowledge of the opposite parties at the time of filing of the earlier application for amendment of plaint. He submits that the opposite parties are trying to delay the hearing of the suit by such process.

The learned advocate appearing for the petitioner further submits that a Co-ordinate Bench

passed an order directing expeditious disposal of the suit.

Heard learned advocate for the opposite parties on such submission.

On going through the application under Order 6 Rule 17 of the Code of Civil Procedure this Court finds that the opposite parties have stated that while the learned advocate for the plaintiff was preparing for peremptory hearing he found that certain facts have not been mentioned in the plaint as the documents have been misplaced.

It is not in dispute that the trial is yet to commence. In view thereof, the proviso to Order 6 Rule 17 of the Code of Civil Procedure does not stand attracted to the case in hand. After going through the facts which the opposite parties sought to incorporate by way of amendment, this Court finds that the same are necessary for the purpose of determining the real controversies between the parties in the said suit. By the proposed amendments, the nature and character of the suit cannot also be said to have been changed.

It is also well settled that application for amendment prior to the commencement of trial are to be considered more liberally.

The learned Trial Judge has applied correct legal tests while deciding the application for

amendment of plaint. This Court, therefore, does not find any reasons to interfere with such order.

At this stage the learned advocate appearing for the petitioner prays that an opportunity be given to the petitioner to file additional written statement. This Court is of the view that an opportunity should be granted to the petitioner to file additional written statement. It will be open to the petitioner to make a prayer for fixing a time limit for filing of the additional written statement. If such an approach is made, the learned Trial Judge shall fix a date for filing of such additional written statement.

With the above observations and directions CO 1608 of 2025 stands disposed of.

There shall be however no order as to costs.

Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Hiranmay Bhattacharyya, J.)