

Court No. 6
(265719)

20.05.2025
(AD 11)
(S. Banerjee)

CO 1693 of 2025

Monoara Bibi
Vs.
Motiar Rahaman

Mr. Anshuman Chakraborty
Mr. Prasanta Bishal

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against order being no. 41 dated March 13, 2025 passed by the learned Civil Judge (Jr. Division) 2nd Court at Barasat in Title Suit No. 220 of 2017. By the order impugned, the application under Order 6 Rule 17 of the Civil Procedure Code praying for amendment of plaint, stood rejected.

Learned advocate appearing for the petitioner submits that the proposed amendments are only clarificatory and explanatory in nature and are necessary for the purpose of deciding the real controversies between the parties in the said suit. He further submits that commencement of trial cannot be an absolute embargo in allowing an application for amendment.

The petitioner filed a suit for declaration of title, recovery of khas possession, permanent injunction and for a decree declaring that the alleged recording in the record of rights is without any basis and the same are not binding upon the plaintiff.

It is not in dispute that the application under Order 6 Rule 17 Civil Procedure Code was filed after the commencement of trial. In the said application the petitioner has not stated the reasons for not seeking such amendment prior to the commencement of the trial.

After going through the schedule of amendment this court finds that the petitioner sought to incorporate the fact that the suit land was originally owned and possessed by Keramatulla, father of Ruhul Amin and the same was recorded in the CS record of rights under Khatian no. 38. After going through the averments made in the plaint, more particularly in paragraph no. 1 thereto, this court finds that it has been specifically stated that the part and parcel of Bastu land in RS and LR plot no. 290 pertaining to RS khatian no. 38 was by virtue of inheritance the absolute property of Ruhul Amin Mondal and Amiron Bibi.

Thus, it appears that the manner in which Ruhul Amin became the owner has been specifically described in paragraph no. 1 of the plaint.

For such reason, this court is of the considered view that the amendment sought for under paragraph (iv) of the schedule of amendment, cannot be said to be necessary for the purpose of deciding the real controversies between the parties as the fact which is sought to be incorporated is already in existence in the original plaint.

It appears that the petitioner also sought to delete the defendant no. 4 from the array of parties by way of amendment, which is not permissible.

It further appears that the petitioner also sought to incorporate the fact that the notice under Section 80(1) of the Civil Procedure Code was served upon the defendant no. 3. From the reliefs claimed in the plaint this court finds that the petitioner has only prayed for a declaration that the recording in the record of rights is without any basis and no relief has been claimed against the said defendant.

For such reason this court is of the considered view that the proposed amendment are not necessary for the purpose of deciding the real controversies between the parties.

For the reasons as aforesaid, this court is not inclined to interfere with the order impugned.

Accordingly, CO 1693 of 2025 stands dismissed.

There shall be no order as to costs.

(Hiranmay Bhattacharyya, J.)