

D/L- 18
22/05/2025
Ct. No.-6
Aritra

C.O. 1727 of 2025

Sukumar Saha
Vs.
Alok Saha

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
Mr. Kaustav Bhattacharyya
Ms. Priyanka Jana

....for the petitioner

Mr. Subhadeep Sen
Mr. Satyajit Senapati

....for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against the order No.80 dated May 2, 2025 passed by the learned Civil Judge (Jr. Div.), 2nd Court at Howrah in Title Suit No.16211 of 2014.

By the order impugned the amendment application filed by the plaintiff/petitioner herein on February 21, 2025 stood rejected.

The petitioner prayed for amendment of plaint which stood rejected by the learned trial judge. Challenging the order rejecting the prayer for amendment, the petitioner approached this Court by filing C.O. 2798 of 2024. A co-ordinate Bench by an order dated January 31, 2025 after allowing the application for amendment of plaint directed the petitioner to file the amended copy of the plaint before

the learned trial judge within a period of two weeks from the date of the order. The amended plaint was filed on February 21, 2025 i.e. beyond the time limit prescribed by the co-ordinate Bench in its order dated January 31, 2025.

Mr. Mukherjee, learned advocate appearing for the petitioner submits that the learned advocate on record of the petitioner before the learned trial judge was under the impression that the time limit fixed by this Court for filing of the amended plaint would start to run from the date of obtaining a certified copy of the said order. He, however, submits that the delay in filing the amended plaint be condoned and the amended plaint be taken on record. Such submission is seriously opposed by the learned advocate for the opposite party. He submits that the petitioner is trying to delay the disposal of the suit and the suit is at the argument stage.

Taking note of the fact that there was only a delay of about seven days in filing the amended plaint, this Court is of the considered view that that the marginal delay in filing the amended plaint should be condoned and the amended plaint should be taken on record subject to payment of cost of Rs.2000/- to be paid by the petitioner to the opposite party through the learned advocate on record of the said opposite party appearing before this Court. Such payment shall be made by tomorrow (23/05/2025). The learned advocate for the

opposite party is directed to issue an acknowledgement in that regard. If the amount as directed hereinbefore is paid within the time limit mentioned hereinbefore the learned trial judge shall take the amended plaint on record.

The order impugned stands set aside subject to compliance of the aforesaid condition. It is however, made clear that if the payment is not made within the time limit mentioned hereinbefore, this order shall stand automatically recalled without any further reference to this Court.

If the payment in terms of the order is made the learned trial judge is requested to take the amended plaint on record.

As prayed for by the learned advocate for the opposite party 14 working days time is given to the opposite party to file an additional written statement. The learned trial judge is requested to proceed with the suit in accordance with law and to make an endeavour to dispose of the same as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

With the above observations and directions CO 1727 of 2025 stands disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)