

Court No. 6
(265719)

23.05.2025
(AD 10)
(S. Banerjee)

CO 1730 of 2025

Haradhan Shown
Vs.
Alauddin Biswas & Ors.

Mr. Arun Kumar Das
Mr. Aritra Sinha

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against order no. 46 dated January 8, 2025 passed by the learned Civil Judge (Jr. Division) 2nd Court at Hooghly in Title Suit No. 25 of 2013. By the order impugned the written statement filed by the plaintiff against the counter-claim filed by the defendant, stood rejected.

By the self-same order the application under Order 6 Rule 17 of the Civil Procedure Code praying for amendment of the description of the schedule of the suit property in the plaint, also stood rejected.

Learned advocate appearing for the petitioner submits that by virtue of the amendment the plaintiff sought to change the nature and character of the suit property as the entire suit property was sought to be changed by way of amendment. He further submits

that such application was filed after the commencement of trial without giving any explanation as to why the same could not be filed prior to the commencement of trial. He further submits that there is no explanation offered for the belated filing of the written statement to the counter-claim.

It is well settled that proviso to Order 6 Rule 17 of the Civil Procedure Code is not an absolute embargo in allowing an application for amendment after commencement of trial if the court is satisfied that the proposed amendments are necessary for the purpose of deciding the real controversy between the parties to the suit.

After going through the schedule of amendment this court finds that the plaintiff sought to incorporate plot no. 474/2434 instead of the plot no. 447/3433 mentioned in the schedule of the plaint. It is well-settled that an erroneous description in the suit property should be allowed to be corrected by way of amendment in order to avoid unnecessary complications at the stage of execution and the proviso cannot create an embargo under such circumstances.

The learned trial judge after going through the materials on record observed that from the

documents produced by the defendant also goes to show that the correct plot no. is 474/2434.

For such reason, this court is not inclined to interfere with the order allowing the application for amendment of plaint.

After going through the impugned order this court finds that the learned trial judge assigned cogent reasons for accepting the written statement filed by the plaintiff against the counter-claim subject to payment of cost.

For all the aforesaid reasons this court is not inclined to interfere with the order impugned. Accordingly, CO 1730 of 2025 stands disposed of.

(Hiranmay Bhattacharyya, J.)