

11.11.2025
Ct. No. 30
S.L. No. 34
SM

CO 2045 of 2025
Ananda Chatterjee @ Ananda Kumar Chatterjee
Versus
Sri Braja Gopal Chatterjee & Ors.

Mr. Sounak Mandal
.....for the petitioner

- 1.** The revisional application has been preferred challenging an order dated 24.03.2025 passed by the learned Civil Judge (Senior Division), 2nd Court, Baruipur, District-24th Parganas (South) in Title Suit No. 581 of 2018.
- 2.** Vide the order under challenge the Trial Court allowed the plaintiff's application under order 6 Rule 17 CPC.
- 3.** Being aggrieved the defendant/petitioner herein has preferred the revisional application.
- 4.** The plaintiff/opposite party has failed to appear in spite of due service.
- 5.** Learned counsel for the petitioner submits that the amendment prayed for, relates to the pleadings relating to a deed by which the defendant accrued his right and the same was part of the written statement filed by the defendant/petitioner herein before the Trial Court on 6th August, 2009.
- 6.** Admittedly, the application praying for amendment of the plaint also relates to the said fact

mentioned in the written statement but the prayer for amendment has been made only in the year 2019 (after 10 years).

7. Learned counsel for the petitioner places Article 59 of the Limitation Act, which lays down that, in respect of a prayer for cancellation and setting aside of an instrument or decree for recession of a contract, the period of **limitation is three years from the date of knowledge**. Whereas the opposite party/plaintiff has prayed for amendment, 10 years after the date of knowledge, which accrued to him, on filing of the written statement in 2009. It is thus submitted that the said amendment is barred by limitation and the Trial Court was wrong in allowing the same, which if permitted to remain shall infringe upon a valuable right of the petitioner herein.

8. Learned counsel for the petitioner has relied upon the judgment in **(2022) 16 Supreme Court Cases 1: 2022 SCC Online Sc 1128 Life Insurance Corporation of India Versus Sanjeev Builders Pvt. Ltd. & Anr.**, wherein the Hon'ble Supreme Court has laid down the guidelines required to be followed while allowing a prayer for amendment.

9. The petitioner relies upon paragraph 71.4.1 of the said judgment which is as follows:-

“71.4.1. By the amendment, a time-barred claim is sought to be Introduced, in which case

the fact that the claim would be time-barred becomes a relevant factor for consideration.”

10. It appears from the order under challenge that the plaintiff has admitted that he wants to incorporate the facts by way of amendment **which came to his knowledge from the statements in the written statement.**

11. As such it is an admitted fact that the written statement filed in 2009 was well within the knowledge of the plaintiff and admittedly he had knowledge of the said information from the written statement. The application for amendment has been made after 10 years and is thus clearly barred by limitation.

12. The Trial Court without taking the same into consideration permitted the amendment which is clearly barred by limitation and thus is not in accordance with law.

13. Accordingly, the order dated 24.03.2025 passed by the learned Civil Judge (Senior Division), 2nd Court, Baruipur, District-24th Parganas (South) in Title Suit No. 581 of 2018, **is hereby set aside.**

14. The Trial Court is directed to proceed with the trial in the Title Suit and make all endeavour to dispose of the same expeditiously.

15. C.O. 2045 of 2025 is disposed of.

- 16.** Connected application, if any, stands disposed of.
- 17.** Interim order, if any, stands vacated.
- 18.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[Shampa Dutt (Paul). J]