

Sl.7
19.06.2025
Court No.6
BP

C.O. 2054 of 2025

Sri Pranab Dutta
-versus-
Smt. Paramita Mandal

Mr. Subhojit Saha
Ms. Srijani Makherjee
... for the petitioner

Mr. Srehash Basu Dasgupta
Mr. Tirthankar Das
..for the opposite party

Affidavit of service filed in Court today is taken on record.

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated 2nd May, 2025 passed by the learned Civil Judge (Senior Division), 10th Court at Alipore in Money Suit No. 15 of 2014.

By the order impugned the application under Order 6 Rule 17 of the Code of Civil Procedure filed by the plaintiff/opposite party herein stood allowed.

The learned advocate appearing for the petitioner submits that the proposed amendments are not subsequent events. He further submits that some of the facts which have already been stated in the original plaint have again sought to be introduced by way of proposed amendment. He submits that the suit is ex facie barred by limitation as would appear from a bare reading of the plaint more particularly the cause of action pleaded in the

plaint and by way of proposed amendment the plaintiff has sought to cure the bar of limitation. He further submits that the application for amendment was filed after the commencement of trial without explaining the reasons as to why the same could not have been filed prior to commencement of trial.

The learned advocate appearing for the opposite party disputes the submission of the learned advocate for the petitioner. He submits that the proposed amendments are only explanatory in nature. The same will not change the nature and character of the suit. He further submits that the trial of the suit is yet to commence.

Heard the learned advocates for the parties and perused the materials placed.

Record reveals that the plaintiff/opposite party has tendered the evidence on affidavit on April 25, 2022.

On a query of the Court the learned advocate appearing for the petitioner, in his usual fairness, submits that the evidence did not proceed any further after April 25, 2022. After going through the recording of the evidence this Court is of the considered view that the trial is yet to commence.

This Court finds that in the original plaint the opposite party has pleaded that the cause of action for the suit arose on 19th March, 2008 at 47A Gariahat Road and it is continuing. Therefore, in the original plaint the plaintiff has pleaded that the cause of action first arose on

19th March, 2008 and is continuing. From the schedule of amendment this Court finds that the petitioner has sought to specify the subsequent dates of cause of action.

For such reason, this Court is not inclined to accept the submission of the learned advocate for the defendant/petitioner that by way of proposed amendments the plaintiff has sought to cure the bar of limitation.

The plaintiff has sought to incorporate the chain of events that took place. Thus, the petitioner had sought to elaborate its case which has already been made in the original pleadings by way of amendment. It is well settled that amendment can be permitted in order to elaborate the case which is already made out in the original plaint.

After going through the proposed amendment this Court is of the considered view that the proposed amendments are necessary for the purpose of deciding the real controversies between the parties. The same would also not change the nature and character of the suit property. It is also well settled that the amendment prior to the commencement of trial has to be considered liberally.

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

Accordingly, C.O. 2054 of 2025 stands dismissed.

The plaintiff/opposite herein is directed to serve a copy of the amended plaint within a period of two weeks from the date of receipt of the server copy of this order.

The petitioner will be at liberty to file an additional written statement within a period of two weeks after service of the copy of the amended plaint upon the learned advocate for the defendant/petitioner before the learned trial judge.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)