

Sl 20
24.06.2025
Court No.6
BP

C.O. 2196 of 2025

Sri Sandip Kumar Paul
-versus-
Sri Pradip Kumar Paul

Mr. Jit Roy
Mr. Joydeep Dhar
Ms. Atreyee Senapati
... for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated 12th December, 2024 and 10th April, 2025 both passed by the learned Judge, 10th Bench, City Civil Court at Calcutta in Title Suit No. 400 of 2019.

By the order dated 12th December, 2024 the application under Order 6 Rule 17 of the Code of Civil Procedure praying for amendment of the written statement and the counter claim stood rejected.

Thereafter the petitioner filed an application under Section 151 of the Code of Civil Procedure praying for recalling or modifying the order dated 12th December, 2024 which was dismissed by the order dated April 10, 2025.

The learned advocate appearing for the petitioner submits that the proposed amendments are necessary for the purpose of deciding the real controversies between the parties in the suit as well as in the counter claim. He submits that the petitioner was the owner of a lorry which

was engaged in the business and the petitioner has got all the document in connection with the said lorry. He further submits that the petitioner has got several documents to show that the defendant and the plaintiff jointly carried on business and worked as contractor.

In the written statement as well as in the counter claim it has been specifically stated by the defendant/counter claimant that the entire price against the consideration was paid from the accounts of the joint business of the plaintiff and the defendant and the joint business was started by the plaintiff, defendant and their mother.

The petitioner has to prove such statements made in the written statement as well as in the counter claim by leading evidence. It is well settled that evidence need not be pleaded in the written statement or the counter claim.

The P.W.-1 in cross-examination dated 28th March, 2024 has stated that the lorry was never in the name of the defendant and this Court finds that the proposed amendments was filed only to demolish the statement of the P.W.-1 in cross-examination by way of amendment which is not permissible in law. The learned trial Judge has assigned cogent reasons for rejecting the application for amendment of the written statement and the counter claim.

Since the order was passed on merit the learned trial judge was also right in rejecting the application under

Section 151 of the Code of Civil Procedure praying for recalling of the order dated 12th December, 2024.

That apart the application for amendment of the written statement and the counter claim was filed at the stage of evidence of the defendant witness. No explanation has been given in the application for amendment as to why the petitioner could not file the amendment application prior to the commencement of trial.

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

Accordingly, C.O. 2196 of 2025 stands dismissed.

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.)