

18.08.2025
Item No.22
Ct. No. 30
Aloke

CO 2313 of 2025

**Awadhesh Kumar Gupta & Ors.
Vs.
Gouranga Banerjee**

Mr. Ajit Kr. Chaubey
Mr. Saunak Bhattacharya
Mr. Noorul Islam
... for the petitioners

1. Affidavit-of-service filed be kept with the record.
2. The civil revision has been preferred challenging the order being No. 139 dated 01.02.2025 passed by the learned Judge, 6th Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No. 2586 of 2000.
3. Vide the order under challenge the petitioners/plaintiffs/decreed-holders had made an application under Order 6 Rule 17 CPC praying for amendment of the schedule of the plaint.
4. It is the contention of the petitioners/plaintiffs/decreed-holders that the nature and character of the shop room has changed by virtue of change of name and style of the shop.
5. The petitioners intended to write the name of the shop room in respect of the shop room against which decree has been passed.

6. It is further submitted by the petitioners that the ejectment suit is of the year 2000 and this order has been passed in 2005 and during the interim period the nature and character and the boundary of the suit room has changed and if the same is not permitted the decree cannot be executed. The petitioners submit that the said amendment prayed for is necessary as without proper identification the decree cannot be executed.

7. The learned trial Judge on hearing the parties rejected the prayer of the petitioners on the following findings :

“A conscious comparison of the proposed amendment made by the decree holder/plaintiff on 12.04.2023 and on 08.01.2025 reveals that there is quite a lot of differences in the claims made by the decree holder/plaintiff regarding the change of business in the surrounding shops. Besides, he has not stated anything about any business under the name and style of Madhuri Enterprise in his former application for amendment.

The suit was decreed with respect to a shop room situated at the ground floor of premises no. 13, Goaltalli Lane, PS Taltalla, Calcutta-13 being butted and bounded by –

On the North : By go-down/shop under occupation of Sri Suresh Kumar Gupta grandson of the plaintiff;

On the East: By Goaltulli Lane;

On the South: By a meat shop occupied by the Udit Singh;

On the West: By room occupied by C.S. Tewari.”

8. On hearing the learned counsel for the petitioners and on perusal of the order under challenge, this Court is of the view that in order to consider the prayer for amendment of the plaint/decreed and to adjudicate as to the genuinity of the amendment prayed for, **a local inspection is to be held** by a learned Advocate to ascertain as to whether the amendment prayed for is in fact the present position/identification of the suit property.

9. Accordingly, the order under challenge dated 01.02.2025 is set aside with the direction that the learned trial Court shall consider the application under Order 6 Rule 17 CPC filed by the plaintiff/decreed holder, **afresh** on directing a local inspection in the suit property, on the basis of the schedule to the plaint and the amendment prayed for and on verification by the learned commissioner who shall submit a report noting the change, if any in respect of the identification of the decretal property before the trial Court. The trial Court on considering the said report shall proceed in accordance with law to dispose of the application under Order 6 Rule 17 CPC, expeditiously.

10. There will be no order as to costs.

11. Connected application, if any, stands disposed of.
12. Interim order, if any, stands vacated.
13. 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.)