

22.07.2025
Item no. 11.
Court No.6.
AB

C. O. 2567 of 2025

**Rajibul Hossain
Vs
Ahammad Sk.**

Mr. U. A. Dewan,
Mr. Asif Dewanfor 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 no.121 dated 20.08.2024 passed by the learned Civil Judge (Jr. Division), 2nd Court, Jangipur, Murshidabad in Misc. Case No.06 of 2020 arising out of Title Suit No. 04 of 2014.

By the order impugned, the application under Order 6 Rule 17 of the Code of Civil Procedure for amendment of the miscellaneous case under Order 9 Rule 9 of the Code of Civil Procedure stood allowed.

Mr. Dewan, learned advocate appearing for the petitioner submits that the opposite party sought to make out a new case by way of amendment which is not permissible.

He further submits that in the miscellaneous case under Order 9 Rule 9 of the Code of Civil Procedure, a case was made out that the opposite party was suffering from illness but now he has sought to contend that there is a typographical error.

After going through the application for amendment, this Court finds that the opposite party herein sought to elaborate the case already made out in the miscellaneous case under Order 9 Rule 9 of the Code of Civil Procedure.

It has been stated in the said application that due to typographical error, some words were not incorporated in the miscellaneous case under Order 9 Rule 9 of the Code of Civil Procedure.

The learned Trial Judge took note of the decisions of the Hon'ble Supreme Court in the case of ***Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited & Anr.*** reported in **2022 SCC Online SC 1128**, ***Rajesh Kumar Aggrawal & Ors. Vs. K.K. Modi and Ors.*** reported in **AIR 2006 SC 1647** and ***Revajeetu Builders and Developers Vs. Narayanaswamy & Sons & Ors.*** reported in **(2009) 10 SCC 84** and allowed the application for amendment.

The learned Trial Judge also noted that the evidence in the miscellaneous case is yet to be started and the proposed amendment shall not change the nature and character of the suit property.

After going through the proposed amendment, this Court is of the considered view that the amendments sought for are necessary for the purpose of deciding the real controversies between the parties

in the miscellaneous case. It is well settled that the merits of the amendment sought for cannot be decided at the stage of allowing the prayer for amendment.

For such reason, this Court is not inclined to interfere with the order allowing the application for amendment. The time to file additional written statement is extended for a period of two weeks from the date of receipt of server copy of this order.

The impugned order stands modified only to the extent as indicated above.

With the aforesaid observation, C. O. No.2567 of 2025 stands disposed of.

(Hiranmay Bhattacharyya, J.)