

D/L- 8
14/08/2025
Ct. No.-6
Aritra

C.O. 2387 of 2024

**Isaruddin Alam @ Isamuddin Alam & Ors.
Vs.
Md. Saifuddin & Ors.
With
CAN 1 of 2025**

Mr. Uday Sankar Chattopadhyay
Mr. Debdipto Banerjee
Mr. Pranoy Basak

...for the petitioners

Mr. Sandip Kundu

....for the opposite party Nos.1 & 2

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

Though this matter is appearing under the heading 'Extension of Interim Order' but the learned advocate for the respective parties were invited to advance their arguments on the merits of the civil revision application. Accordingly, the learned advocates for the respective parties made their submissions on the merits of the civil revision application.

In view thereof, this civil revision application is taken up for final hearing with the consent of the learned advocates for the respective parties by treating the same as on the days list.

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order being No.44 dated April 10, 2024 passed by the learned Civil Judge (Jr. Div.), 2nd

Court at Jangipur, District-Murshidabad in Title Suit No.133 of 2019.

By the order impugned, the application under Order 6 Rule 17 of the Code of Civil Procedure stood allowed.

Mr. Chattopadhyay, learned advocate appearing for the petitioner submits that the opposite parties herein claimed title in respect of the suit property by virtue of a deed bearing No.6582/1959. The said deed is a forged and fraudulent one and the petitioner was successful in proving that there is no existence of the deed bearing No.6582/1959 and, thereafter, the opposite parties sought to incorporate a new deed being No.4502/1958 in place of the earlier deed bearing No. No.6582/1959. He submits that such an amendment would amount to withdrawal of admission made in the written statement.

Mr. Chattopadhyay further submits that the application for amendment was filed after the commencement of trial without giving any explanation as to why the application for amendment could not be filed prior to the commencement of trial.

The learned advocate appearing for the opposite parties submits that the application for amendment of the written statement was filed in order to correct a typographical error with regard to reference of a number of the deed in the written statement. He further submits

that such prayer for amendment was allowed with cost of Rs.3000/-.

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

Mr. Chattopadhyay, learned advocate appearing for the petitioner would contend that the proviso to Order 6 Rule 17 of the Code of Civil Procedure stands attracted to the case on hand as the application under Order 6 Rule 17 of the Code of Civil Procedure was filed after the P.W. 1 filed the affidavit-in-chief.

It is not in dispute that though only the affidavit-in-chief was filed but no documents were marked as exhibits.

Thus this Court is of the considered view that the trial of the instant suit is yet to commence and the application for amendment of the written statement was filed prior to the commencement of trial. Thus the proviso to Order 6 Rule 17 of the Code of Civil Procedure does not stand attracted to the case on hand.

After going through the proposed amendment, this Court finds that the opposite parties sought to incorporate the deed being No.4502/1958 in the 9th paragraph of the written statement at page 3 in the 7th line of that page in place of the deed No.6582/1959.

After going through the proposed amendment it appears to this Court that the opposite parties sought to

correct a typographical error in the number of the deed by way of amendment.

The Hon'ble Supreme Court in the case of **Life Insurance Corporation of India vs. Sanjeev Builders Pvt. Ltd. & Anr.**, reported at **(2022) 16 SCC 1**, has culled out the principles to be followed while considering an application for amendment of plaint. The Hon'ble Supreme Court held that all amendments are to be allowed which are necessary for determining the real questions in controversies provided it does not cause injustice or prejudice to the other side and the prayer for amendment is to be allowed in order to avoid multiplicity of proceedings. It was further held therein that in dealing with a prayer for amendment of pleadings, the Court should avoid a hypertechnical approach, and is ordinarily required to be liberal especially when the opposite party can be compensated with costs. It was further held therein that an amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.

In the case on hand as observed hereinbefore that the proposed amendment was sought for in order to correct the typographical error with regard to the number of a deed which is a material fact for the purpose of deciding the real controversies between the parties to the suit. That apart, the prayer for amendment was also allowed subject to payment of cost. Thus the petitioner

has been duly compensated for the delayed approach made by the opposite parties while praying for amendment of the written statement.

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

Accordingly, CO 2387 of 2024 stands dismissed and CAN 1 of 2025 stands disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)