

Sl.12
12.08.2025
Court No.6
BP

C.O. 2829 of 2025

M/s. E.I.C. Holding Private Limited
-versus-
M/s. Sufal Construction Private Limited

Mr. Jayak Kumar Gupta
Mr. Pawan Kumar Jajodia
... for the petitioner

Mr. Subhasis Dey
Mr. A. Dhar
Mr. Victor Mukherjee
..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 being no. 90 dated 18th June, 2025 passed by the learned Judge, XIIIth Bench, City Civil Court at Calcutta in Title Suit No. 1834 of 2012.

By the order impugned the application under Order 6 Rule 17 of the Code of Civil Procedure filed by the opposite party praying for amendment of plaint stood rejected.

The learned advocate appearing for the petitioner submits that the application for amendment of plaint was filed after the evidence has been closed and the suit was fixed for argument. He further submits that by way of proposed amendment the opposite party sought to

introduce new facts. He further submits that a more or less identical prayer for amendment of the plaint was rejected by the learned trial judge by an order dated August 22, 2024 and for such reason the learned trial judge ought not to have allowed the present application for amendment of plaint.

Per contra the learned advocate appearing for the opposite party submits that since there were certain inadvertent errors in the earlier application for amendment of plaint, the opposite party filed an application under Article 227 of the Constitution of India being C.O. 3925 of 2024 challenging the order dated August 22, 2024 passed by the learned trial judge thereby rejecting the earlier application for amendment of the plaint. He submits that the Co-ordinate Bench after noting the submissions of the learned advocate for the opposite party who was the petitioner in C.O. 3925 of 2024 gave liberty to the plaintiff to file a fresh application for amendment of plaint within the time limit stipulated in the said order. He submits that the said order had attained finality and the petitioner cannot now challenge the propriety of such order in this civil revisional application. He further submits that the opposite party sought to incorporate the fact that the opposite party had sent a cheque of a sum of Rs. 51,000/- to the petitioner which the petitioner refused to accept and returned the same to the opposite party herein. He submits that no

prejudice would be caused to the opposite party if the proposed amendment is allowed.

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

After going through the schedule of the proposed amendment application filed by the opposite party on January 17, 2024, this Court finds that the opposite party sought to incorporate the fact that the plaintiff duly sent a sum of Rs. 51,000/- only on account of due rent to the defendant through cheque and the defendant duly accepted the same. However, subsequently returned the said cheque to the plaintiff. Such application for amendment of plaint was rejected by the learned trial judge by an order dated August 22, 2024. The said order dated August 22, 2024 was challenged by the opposite party herein by filing a civil revisional application being C.O. 3925 of 2024. The said civil revisional application being C.O. 3925 of 2024 came up for hearing before the Co-ordinate Bench on February 18, 2025 when a submission was advanced by the learned advocate for the opposite party who was the petitioner in the said civil revisional application that though the contention of the plaintiff in the proposed amendment was that it sent a sum of Rs. 51,000/- only on account of due rent to the defendant through a cheque and the defendant refused to accept the cheque but in the schedule of amendment, it had been written that the defendant duly accepted the

same and subsequently returned the cheque to the plaintiff.

In the light of the said submissions made by the learned advocate for the opposite party the Co-ordinate Bench disposed of C.O. 3925 of 2024 thereby giving liberty to the plaintiff to prefer fresh application for amendment of plaint within the time limit mentioned in the said order. Pursuant to the liberty granted by the Co-ordinate Bench the petitioner filed an application under Order 6 Rule 17 of the Code of Civil Procedure. Apart from inserting the fact that the plaintiff duly sent a sum of Rs. 51,000/- only on account of due rent to the defendant through account payee cheque but the defendant after receiving the same subsequently returned the same cheque to the plaintiff without any rhyme and reason, the opposite party sought to introduce two more paragraphs by way of amendment. After going through the schedule of the proposed amendment this Court finds that the opposite party sought to introduce the fact that the tenancy was initially made with one Mrs. Tara Devi Kedia and accordingly the rent on the religious basis was paid till December 1982 and, therefore, the tenancy agreement is still valid. It was further sought to be incorporated by way of amendment that a fresh registered lease deed was executed on 25th January, 1983 with M/s. Sufal Construction Private Limited for a long time period of thirty years or more with an interest being

security deposit of Rs. 20,000/- which was received on 25th January, 1983 and in case of non-payment of such huge amount along with interest holding more than 40 years should be discharged first before claiming the vacation of the premises and the defendant is silent completely on such matter of causing major financial irregularity on their part.

After going through the original plaint this Court finds that the facts sought to be incorporated by way of proposed amendment do not have the slightest basis in the original plaint. The plaintiff sought to make out a new case by way of amendment after closure of the evidence of the parties. Proviso to Order 6 Rule 17 of the Code of Civil Procedure states that no application for amendment shall be allowed after the trial has commenced unless the court comes to the conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial. In the application for amendment of plaint the opposite party herein has not explained as to why the application for amendment of plaint could not have been filed prior to the commencement of trial for the purpose of incorporating certain facts which took place in the year 1982 and 1983. This Court is also conscious of the proposition of law that even if an application for amendment has been filed at a belated stage the same cannot be rejected if the proposed amendments are necessary for the purpose of deciding

the real controversies between the parties and the same does not cause any prejudice to the other side.

After going through the proposed amendment this Court is of the considered view that the proposed amendments are not necessary for the purpose of deciding the real controversies between the parties in the instant suit. The opposite party also sought to make out a new case after the commencement of trial when the evidence of the parties have been closed and the suit has been fixed for argument. Therefore, the proposed amendment could undoubtedly cause prejudice to the defendant. Merely because of the fact that liberty was granted by the Co-ordinate Bench to file an application for amendment of the plaint, that cannot be construed to be a direction upon the learned trial judge to allow a prayer for amendment even if the same is not necessary for the purpose of deciding the real controversies between the parties.

For all the reasons as aforesaid, this Court is inclined to interfere with the order impugned. Accordingly the order impugned dated June 18, 2025 is set aside.

The learned trial judge is directed to proceed with the suit and dispose of the same as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

With the above observation and direction, C.O. 2829 of 2025 stands allowed.

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.)