

Court No. 6
(265719)

13.08.2025
(AD 16)
(S. Banerjee)

CO 2871 of 2025

Rina Halder & Ors.
Vs.
Smt. Suvra Palit

Mr. Asis Kumar Das
Mr. Srikrishna Samanta

...for the petitioners

Mr. Srinjoy Das

...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 order no. 127 dated June 9, 2025 passed by the learned Civil Judge (Jr. Division), 2nd Court Alipore in Ejectment Suit No. 218 of 2010. By the order impugned, the application under Order 6 Rule 17 of the Civil Procedure Code, stood allowed.

The learned advocate appearing for the petitioners submits that the opposite party sought to withdraw the admissions made in the original plaint by way of proposed amendment. It is further submitted that the instant application for amendment of the plaint was filed after the commencement of trial

without giving satisfactory explanation as to why the application for amendment of the plaint could not be filed prior to commencement of trial.

Learned advocate appearing for the opposite party submits that for the purpose of bringing on record the subsequent events such application for amendment was filed. He further submits that in the meantime the opposite party remarried and the accommodation that is required has increased and in order to incorporate such facts in the pleadings the application for amendment was filed.

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

The opposite party herein filed a suit for eviction of the petitioner herein on the ground of default and reasonable requirement.

Though it is not in dispute that the subsequent events can be permitted to be incorporated by way of amendment, it is also equally well-settled that by way of amendment the admission cannot be withdrawn.

After going through the schedule of the application for amendment of plaint, this court finds that the opposite party sought to delete paragraph nos. 8, 9 and 10 of the original plaint as a whole and sought to replace the same by three new paragraphs

as indicated in the schedule of the application for amendment of plaint.

Thus, it appears to this court that the opposite party sought to withdraw the admissions made in the original plaint by way of amendment, which is not permissible.

For such reasons this court is inclined to interfere with the order impugned. Accordingly, the order impugned stands set aside. The application for amendment of plaint stands rejected.

It is, however, made clear that this order shall not prevent the opposite party from taking out an appropriate application in accordance with law.

If such an application is made, the learned trial judge is requested to consider the same upon giving an opportunity of hearing to the respective parties and by passing a reasoned order.

With the above observation CO 2871 of 2025 stands disposed of.

(Hiranmay Bhattacharyya, J.)