

13.08.2025
Item No.17.
Court No.06.
S. De
265719

C.O. 2885 of 2025

**Tanuja Bibi & Anr.
Vs
Motalef Tarafder & Ors.**

Mr. Suprabhat Bhattacharyya,
Mr. Biswajit Das, ...for the petitioners.

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against an order dated June 5, 2025, passed by the learned 7th Civil Judge (Sr. Divn.), Alipur, South 24-Parganas in Title Suit No.1020 of 2024.

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

Mr. Bhattacharyya, learned counsel appearing for the petitioners submits that the proposed amendments are not necessary for the purpose of deciding the real controversies between the parties. He further submits that the proposed amendment relates to a fresh cause of action and, therefore, the same ought not to have been allowed to be incorporated by way of amendment. He further submits that the proposed amendment would change the nature and character of the suit.

The opposite party herein filed a suit for declaration that the plaintiffs are the joint owners of

the suit property and for a further declaration that the plaintiff/defendant nos. 1 and 2 have no right, title and interest in respect of the suit property and for further declaration that the defendant no.2 did not acquire any right, title and interest in respect of the suit property by virtue of a deed of gift dated March 14, 2005 and that the said deed is null and void in the eye of law. The opposite parties also prayed for a decree for permanent injunction restraining the defendants/petitioners and their men and agents from interfering with and disturbing the peaceful possession of the aforesaid parties in respect of the suit property. By way of amendment, the opposite parties sought to introduce the fact that during the pendency of the instant suit the defendant nos. 1 and 2 have raised pucca construction on the suit land, though they do not have any right, title and interest in respect of the suit property, by taking advantage of the situation that there is no order of injunction with regard to raising of any construction on the suit property. The opposite parties also sought to incorporate the relief of mandatory injunction directing the defendant nos. 1 and 2 to demolish the pucca construction erected on the suit land by way of a decree for mandatory injunction.

After going through the schedule of the amendment, this Court finds that the facts sought to be incorporated by way of an amendment is a subsequent event. It is well-settled that a subsequent

event can be allowed to be incorporated by way of amendment. That apart the trial of the suit has not yet commenced. It is also well-settled that an application for amendment of pleadings filed prior to the commencement of trial should be construed more liberally than an application filed after the commencement of trial.

After going through the schedule of amendment, this Court finds that the proposed amendments are necessary for the purpose of deciding the real controversies between the parties and to avoid multiplicity of proceedings.

For all the reasons as aforesaid, this Court holds that the learned Trial Judge was right in allowing the application under Order 6 Rule 17 of the Code of Civil Procedure filed by the plaintiff/opposite party for amendment of plaint.

This Court is, therefore, not inclined to interfere with the order impugned.

Accordingly, C.O. 2885 of 2025 stands dismissed.

There shall be no order as to costs.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Hiranmay Bhattacharyya, J.)