

23.12.2025
Ct. No. 06
Sl. No.1
skg

C.O. No. 3687 of 2025

M/s. Subham Enterprise

Vs.

Sri Joy Baba Kedernath Cold Storage Private Ltd. & Ors.

Mr. Anirban Bose,
Mr. Amar Krishna Saha,
Ms. Smita Singh,
Mr. Rahul Nag,
Mr. Satyajit Senapati,

.....for the petitioner

Mr. Ayan Banerjee,
Mr. Ajay Chowdhury,

...for the opposite parties

1. In the penultimate line of paragraph 3 of the order dated November 12, 2025 Rs.49,30,678/- be corrected as Rs.41,30,678/-.
2. The petitioner is aggrieved by the order dated August 14, 2025 passed by the learned Civil Judge (Sr. Div.), Chandannagar, Hooghly in Money Suit no. 18 of 2021.
3. By the order impugned, the learned court rejected the application for amendment after issues were framed. The petitioner wanted to correct certain typographical errors in the figures. According to the petitioner there were miscalculations. The total money claim of the petitioner was mentioned as Rs.39,05,530/- but the said claim ought to have been Rs.41,30,678.

4. The other paragraphs of the plaint in which the similar typographical errors in the figures had cropped up were also sought to be corrected. The learned Court was of the view that the claim was time barred. Such amendment would not only prolong the trial, but also unfairly prejudice the defendants. If the amendments were allowed, it would not only dilute the discipline, but also amount to rewriting the suit after four years. The doors of amendment could not be kept ajar to allow stale and time barred claim. Several decisions of the Hon'ble Apex Court were relied upon by the learned court, to justify refusal of the amendment.
5. Mr. Bose learned Advocate for the petitioner submits that the learned court failed to appreciate that the petitioner did not incorporate a new claim, but the mistake in the computation was sought to be corrected. The claim was thus, not time barred. It is also submitted that the merits of the amendment application ought not to have been decided by the learned Court.
6. Mr. Banerjee learned Advocate for the opposite parties/defendants submits that, this is a suit for recovery of money. The petitioner enhanced the claim after four years from the filing of the suit. Such claim was barred by limitation. The Hon'ble Apex Court had clearly held that, although amendments should be

allowed liberally, but an amendment could not be allowed in order to introduce a time barred claim.

7. I appreciate the submissions of Mr. Banerjee. The application for amendment states that after going through the vouchers and the payments received from the defendants, the petitioner discovered that the sum of money stated in the plaint was incorrect. There were miscalculations and the actual amount payable at the relevant point of time was Rs.41,30,678/-. In other paragraphs as well, certain mistakes in the figures had occurred. The vouchers were not considered properly at the relevant point of time. Those errors were sought to be corrected.
8. In my view, the plaintiff can correct mistakes in the calculations. Whether the enhancement in the quantum of money was an additional claim or whether the said amount was the actual claim but had not been stated in the plaint at the time of filing of the suit, is a matter of evidence. The payment vouchers and other documents on the basis of which the errors in miscalculations were corrected, will have to be looked into, to understand whether the claim is time barred or not. This can only be done upon appreciation of evidence. Thus, the amendment is allowed, but the point of limitation with regard to the enhanced claim introduced by way of the amendment, shall be decided at the trial.

9. Although, the issues have been framed, allowing this amendment will not create any impediment in the trial. The plaint case remains the same. No new cause of action has been brought in. The amendment can be allowed upon payment of cost to the defendant. The petitioner is allowed to file the amended plaint within a period of 4 weeks from date. Such amended plaint will be accepted by the court upon the petitioner paying cost of Rs.5000/- to the defendant within four weeks from date. The defendants will be at liberty to file their additional written statement within the period to be fixed by the learned trial Judge. If the cost, as directed by the court, is not paid, the amended plaint shall not be accepted. The point of limitation being a triable issue, will be decided by the learned court at the time hearing of the application. The issue of additional court fees shall also be decided by the learned Court and necessary order shall be passed. The plaintiff shall pay the additional court fee as per the direction of the court.

10. The revisional application is accordingly disposed of.

11. There shall be no order as to costs.

12. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)