

972.
(M/L).

07.05.2025
Court No.6
(Tanmoy)

CO/ 3566 /2024

SWAPAN KUMAR DUTTA
VS
SRI SANJIB SHAW

Mr. Santu Nandy

...for the petitioner.

1. This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order no.221 dated July 3, 2024, passed by the learned Judge, Bench-II, City Civil Court, Calcutta, in Title Suit No.1394 of 2002. By the order impugned, the application filed by the petitioner under Order VI, Rule 17 of the Civil Procedure Code, 1908, stood rejected.

2. The learned Advocate appearing for the petitioner submits that the application for amendment of the written statement was filed for taking note of subsequent events and the petitioner wanted to set up a counter-claim for such purpose.

3. It is well-settled law that in order to set up a counter-claim by the defendant against the claim of the plaintiff the right or claim in respect of the cause of action shall accrue to the defendant against the plaintiff either before or after filing of the suit but

before the defendant has delivered his defence or before the time-limit for delivering his defence has expired.

4. In the application for amendment it has been stated that the cause of action for filing the counter-claim accrued to the defendant on May 8, 2023, which is long after the filing of the written statement and the additional written statement by the defendant.

5. The learned Trial Judge, in the considered view of this Court, was right in rejecting the prayer for amendment of the written statement.

6. In view thereof, CO/3566/2024 stands dismissed.

7. There shall be no order as to costs.

(HIRANMAY BHATTACHARYYA, J.)