

19.11.2025
Ct. No. 06
Sl. No.40
skg

C.O. No. 3956 of 2025

Supriya Chowdhury & Anr..
Vs.
Asit Chakraborty & Anr.

Mr. Debanik Banerjee,
Mr. Debrup Bhattacharya,
Mr. Steven S. Biswas,
Mr. Huzaifa Shahid,

.....for the petitioners

This is an application challenging the order dated August 6, 2020 passed by the learned Civil Judge (Jr. Div.) 1st Court at Serampore, Hooghly in Title Suit no. 31 of 2021. The learned court allowed the application for amendment of the plaint and amendment of the injunction application at the very initial stage of the suit.

Admittedly, the issues have not been framed. The opposite party no.1 as the plaintiff filed the suit for declaration and permanent injunction in respect of a first floor flat bearing No. A-2 which consists of two bed rooms, one living/dinning room, one kitchen, one bath-cum-privy, one attached toilet, one balcony, situated at holding no. 30 Prasad Moyee Devi Lane within Konnagar Municipality.

The plaintiff's case was that he was a tenant in respect of the suit property under one Swapan Kumar Das, predecessor in interest of the opposite party no.2.

After the demise of Swapan Kumar Das, the plaintiff was unable to tender rent to any person as Swapan Kumar Das died a bachelor. Suddenly, the defendant no.1/ opposite party no.2, son of one Santosh Kumar Das, entered into the suit property and threatened the plaintiff and tried to forcibly evict the plaintiff. As the said defendant continued to disturb the plaintiff with various threats, the suit was filed for declaration that the plaintiff was a lawful tenant under the legal heirs of Swapan Kumar Das (since deceased) in respect of the suit property and for a declaration that the defendants did not have any right to evict the plaintiff from the suit property except in accordance with law.

The petitioners filed an application for addition of party. They were added as party defendants. When the plaintiff came to know that the suit property had been sold to the petitioners and by virtue of an order passed by the consumer forum they sought to execute the same as owner of the suit property being execution case no.06 of 2016 arising out of consumer case no.45 of 2014, such subsequent facts with regard to the proceedings before the consumer forum was sought to be brought on record by the amendment. It were alleged that Swapan Kumar Das, collusively prepared the documents with Supriya Chowdhury and Prabal Chowdhury and filed the case before the Consumer Forum in order to illegally evict the plaintiff. Such averments were sought to be incorporated.

Further averments that the plaintiff approached the district consumer forum to be added as a party in the execution case, but application was rejected. Thereafter, the plaintiff preferred an appeal and that the appeal was disposed of with the observation that the parties should await the decision of the Civil Court, were also sought to be brought on record. The Plaintiff also asserted possession.

The learned court rightly exercised discretion and allowed such amendment. The plaintiff has neither withdrawn any admission nor retracted from any admission made in the plaint. The amendments are only elaborations of the plaint case and incorporation of further facts and issues which took place in the consumer forum. The petitioners will be permitted to file their additional written statement and additional objection to the amended plaint and the amended injunction application, within the time that may be fixed by the trial court.

Under such circumstances, this court does not find any reason to interfere with the order of the learned trial court.

The application is accordingly dismissed.

(Shampa Sarkar, J.)