

24.11.2025  
SL No.9  
Court No.6  
(gc)

**CO 3972 of 2025**

**Uttam Kumar Gupta**  
**Vs.**  
**Apurba Ghosh Roy**

Mr. Sounak Bhattacharya,  
Mr. Sounak Mandal,  
Mr. Anirban Saha Roy,  
Ms. Bipasha Bhattacharyya  
...for the Petitioner.

1. By the order dated September 24, 2025, the learned Civil Judge (Sr. Divn.), 8<sup>th</sup> Court, Alipore, South 24 Parganas, rejected the application for amendment of the written statement, which was filed in connection with Title Suit No.51 of 2015. The learned Court was of the view that after the cross-examination of the P.W.1 was over, allowing the amendment would be unnecessarily dragging the suit. The petitioner, who was the defendant in the suit, did not show due diligence in pursuing his remedy. The petitioner sought for the amendment on the ground that in view of lack of proper understanding of law and due to oversight, certain facts could not be brought on record. The Court was of the view that, after commencement of the trial, only if the party seeking amendment could satisfy that, in spite of due diligence, the facts sought to be brought on record were not known or that the facts involved

subsequent cause of action, such amendment could be allowed.

2. I have perused the schedule of the plaint and I find that the petitioner has sought to incorporate additional facts with regard to the way he came into possession of the property, allegedly, as a tenant. In the written statement which has been filed, a similar defence has been taken. Paragraphs 14 to 22 of the written statement briefly narrate the defence case. The facts which the petitioner wanted to elaborate by amending the written statement are available in the written statement, but in lesser detail. The documents relied upon in paragraph 22 of the written statement are explained and elaborated in the amendment application. In paragraph 8 of the written statement, the defendant had specifically pleaded that the plaintiff had not informed the defendant about the purchase of the property. Similar pleading is available in paragraph 13. In paragraph 14, the defendant specifically stated that the shop room was a tenanted premises and used as a fair price shop, duly approved by the Government of West Bengal. The Government of West Bengal also issued a licence in respect of the fair price shop which the defendant was running. According to the defendant, the erstwhile landlord issued rent bills in the name of the defendant. In

paragraph 16, the defendant has asserted that, the plaint case was totally false. The contention of the plaintiff that, the relationship between the parties was not that of a landlord and tenant was denied. The defendant was a tenant in respect of the premises and was depositing rent with the Rent Controller at Calcutta. The defendant specifically denied that, he was a trespasser and asserted that, he had a right to remain in the premises as a tenant.

3. Lastly, the defendant denied the factum of issuance of the notice to quit and vacate the premises. In the amendment application, similar facts were sought to be elaborated along with the details regarding who were the owners of the property. The fact that Mr. Prahlad Gupta was the original tenant, is admitted by both the parties. The fact that Mr. Prahlad Gupta was the uncle of the defendant is also admitted by the parties.
4. The amendment contains pleadings/averments which are not necessary for the adjudication of the dispute between the parties. Mere elaboration on the ownership of the property, how the ownership devolved on the plaintiff, how the defendant came in possession of the property etc. are not required to be brought on record for proper adjudication of the dispute between the

parties. It is a suit for eviction of a trespasser. The cross-examination of PW 1 is over. The plaint case is that, notice to quit and vacate had been served upon the defendant. The defendant denied the issuance of such notice. The amendments are redundant. The defence case is sufficiently elaborated in the original application. Amendment after commencement of trial, should not be allowed as a matter of course. Only if such amendment is necessary for proper adjudication of the disputes between the parties, the same may be allowed. The amendment should be bona fide and not for any oblique motive.

5. I do not find that the elaboration of the facts help in furtherance of the defence case. The pleadings already incorporate such facts. The cross-examination of the P.W.1 is over.
6. Under such circumstances, the learned Court has neither acted in a perverse manner nor has failed to do justice to the parties. A discretionary order should not be interfered with at a mere asking. This court cannot permit reopening of the evidence already adduced. This is a dilatory tactic.
7. Accordingly, the revisional application is dismissed without any interference.
8. There shall be no order as to costs.

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

**(Shampa Sarkar, J.)**