

JPS-04
Ct No.01
01.08.2025
AK

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Civil Appellate Jurisdiction

C.O. 102 of 2025

Passang Lama
Vs
Poonam Kumar Sharma and another

Mr. Pratap Khati
Mr. Prejesh Pradhan

.... for the petitioner.

- 1.** The present challenge has been preferred against an order whereby an amendment to the plaint in an eviction suit under the West Bengal Premises Tenancy Act, 1997 (hereinafter to as 'the 1997 Act') has been allowed.
- 2.** Learned counsel appearing for the defendant/petitioner contends that by virtue of the amendment, the entire nature and character of the suit has been sought to be altered.
- 3.** It is contended that the crucial basis of the suit, that is, the date of the cause of action, has also been sought to be changed by the amendment, which is not permissible in law.
- 4.** Learned counsel for the petitioner argues that by the impugned amendment, the cause of action of

the suit, which was originally mentioned in the plaint to be November 1, 2022, has been attempted to be changed to October 1, 2022, which takes away the very premise on which the suit was filed.

5. However, on a perusal of the proposed amendment, I find that the basis of the eviction suit was the eviction notice dated August 2, 2022 which has been referred to in the plaint and remains unaltered even after the proposed amendment.
6. The cause of action in a suit under the 1997 Act is the notice of eviction under section 6(4) of the 1997 Act.
7. In the present case, the proposed amendment does not seek to alter the factum of the notice or its date.
8. In the notice itself, the date from which the defendant was directed to vacate the premise was stated to be October 1, 2022.
9. Since the notice itself or its date has not been denied or sought to be altered by way of the amendment, but it was a mere typographical error in the original plaint that the cause of action of the suit arose on November 1, 2022 whereas the notice itself states it to be October 1, 2022, the plaintiffs have only sought to incorporate what is there

already in the pleadings and in the notice, which is an integral part of the pleading and referred to in the plaint.

- 10.** The other component of the amendment is the date of receipt of such notice by the defendant, which is entirely immaterial insofar as the cause of action of an eviction suit is concerned.
- 11.** Thus, I find that the amendments sought to be incorporated are minor in nature and formal in character and do not, in any manner, change the very nature or character of the suit, since the cause of action of the suit primarily is the notice dated August 2, 2022, the date of which or the factum of which has not been sought to be altered by the amendment.
- 12.** In any event, the amendment application was taken out at a stage when the trial had not yet commenced and, as such, pre-trial amendments do not attract the proviso to Order VI Rule 17 of the Code of Civil Procedure or its rigours.
- 13.** Accordingly, I do not find any jurisdictional error or illegality in the order of the learned trial Judge.
- 14.** Hence, C.O. 102 of 2025 is dismissed, thereby affirming Order no.36 dated April 28, 2025 passed

by the learned Civil Judge, Senior Division at Darjeeling in O.C. (Ejectment) Suit No.15 of 2022.

- 15.** There will be no order as to costs.
- 16.** Urgent certified copies, if applied for, be given to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)