

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/36/2025
WITH CS/87/2009
IA NO:GA/2/2024
SUMITRA BASU AND ANR.
-VS-
RITHVIK BHATTACHARYA

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
And
The Hon'ble JUSTICE AJAY KUMAR GUPTA
Date: September 9, 2025.

Mr. R. Ghosh, Adv.; Mr. D. Sengupta, Adv.; Ms. S. Mukherjee, Adv.; Mr. A. Chakraborty,
Adv., for appellant.
Mr. Samrat Sen, Sr. Adv.; Mr. P. Sinha, Adv.; Mr. R. Banerjee, Adv.; Mr. S. Chowdhury,
Adv., for respondent/plaintiff.

1. The Court: This appeal is directed against the judgment and order dated February 29, 2024, passed by a learned Single Bench of this Court.
2. By the aforesaid order, the Court allowed an application under order 6 rule 17 of the CPC filed by the respondent.

3. Learned counsel appearing for the appellants would argue that the prayer for leave under clause 12 of the letters patent as also the prayer for leave under order 2 rule 2 of the CPC cannot be allowed post institution of the suit. In so far as the third prayer, I.e. the prayer for decree for possession is concerned, the same argument is advanced by the learned counsel for the appellants.
4. It is now far too well settled that an amendment to the plaint can be sought for with sufficient explanation and ordered at any time before passing of the decree. Amendments are entertained even after evidence of the parties have been led if delay is explained. In the instant case, the trial has not commenced yet. The amendments allowed have not changed the nature and character of the suit.
5. In the backdrop of the above, this Court is of the view that the impugned order otherwise calls for another interference.
6. However, in so far as the prayer for seeking possession of the immovable property allowed by the Court, the same shall subject to the law of limitation and the same may be argued by the parties after leading evidence, if any, that they may deem necessary.
7. Time to file additional written statement by the appellants in the suit is extended by a period of four weeks from date.
8. Let there be cross order for discovery of documents within a period of two weeks after filing of additional written statement and inspection forthwith thereafter. The suit may be taken up for framing of issues as expeditiously as possible thereafter, but preferably within a period of two weeks after the inspection is completed.

9. The plaintiff shall also be put to strictest terms to ensure conduct of hearing of the suit and no unnecessary adjournment shall be granted to the plaintiff.
10. It is expected that the suit is taken up and disposed of subject to the business of the Court, February, 2026.
11. With the aforesaid observations APO/36/2025 (formerly APOT/143/2024) stands disposed of along with connected application, if any.
12. There will be no order as to costs.

(RAJASEKHAR MANTHA, J.)

(AJAY KUMAR GUPTA, J.)

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