

N.22Sl
151/CL

CO 825 of 2026

Krishna Mondal
v.
Dulal Mondal & Ors.

17.03.26
SL-13
Ct-06
(S.R.)

Mr. Sounak Bhattacharya
Mr. Sounak Mondal
Mr. Abhirup Halder
Ms. Bipasha Bhattacharya ... for the petitioner.

Mr. Supratick Syamal
Mr. Gora Chand Samanta
Mr. Arkarupa Ray
... the defendants/opposite parties.

1. This revisional application is directed against an order dated December 5, 2025 passed by the learned Civil Judge (Junior Division), 1st Additional Court at Diamond Harbour, South 24-Parganas whereby the petitioner's application for amendment of plaint under Order 6 Rule 17 of the Code of Civil Procedure, 1908 has been dismissed.
2. Mr. Bhattacharya, learned advocate appearing for the petitioner submits that the application was necessitated in view of the fact that the petitioner was able to lay his hands on an identity card of the petitioner's predecessor-in-interest which contains his signature and that on comparison of the signature of the petitioner's predecessor-in-interest on the said identity card with that on the deeds it would be evident that the deeds on the basis whereof the defendants are claiming title were

fraudulent.

3. It is further submitted by Mr. Bhattacharya that the learned Trial Court failed to appreciate that bringing the facts mentioned in the application for amendment under Order 6 Rule 17 of the Code, on record, would not change the nature and character of the suit and that, the same was necessary for proper determination of the issue in the suit.
4. It is further submitted by Mr. Bhattacharya that the application under Order 6 Rule 17 clearly states that the petitioner could find the identity card only after thorough search and, as such, it cannot be said that the petitioner did not bring the said material on record due to lack of diligence.
5. Mr. Syamal, learned advocate appearing for the opposite parties submits that this is the second application for amendment of plaint. It is submitted that the first application for amendment had been allowed by an order dated January 29, 2024. It is submitted that the said application for amendment had been filed by seeking to amend the plaint and bring on record assertions to the effect that the title deeds, on which the defendants rely, were fraudulent. It is submitted that such application for amendment had been filed immediately after the defendants had put in their written statements. It is further submitted by Mr. Syamal that the present application for amendment

clearly fails the test of due diligence inasmuch as despite a clear case of fraudulent deeds having been run by the plaintiff upon amending the plaint, the said document has been sought to be brought on record only after the plaintiff's witnesses having been examined and cross-examined in full and upon completion of examination of one of the defendants' witnesses.

6. It is submitted by Mr. Bhattacharya in reply that the application was filed at a time when the examination of the plaintiff's witnesses was continuing and not after conclusion of plaintiffs evidence as contended by Mr. Syamal.
7. Heard learned counsel for the respective parties and considered the material on record.
8. It is not in dispute that the present application for amendment, which has been rejected by the order impugned, has been filed after commencement of trial.
9. In such view of the matter, in order for the Court to allow such an amendment, it would be, *inter alia* necessary for the Court to arrive at a satisfaction that the petitioner could not bring the material, (which the petitioner now seeks to bring on record by way of an amendment) despite due diligence prior to commencement of trial. In the application for amendment, the petitioner has in order to explain his due diligence written thus: - "*Baari*

bohu anusondhan koriya sobe maatro ukto identity card ti papto hoiyache” (transliteration).

10. The aforesaid statement is blanket and non-specific. It does not answer the test of due diligence at all. The learned Trial Court has given sufficient and cogent reasons as to why could the petitioner not pass the test of due diligence as required under the proviso to Order 6 Rule 17 of the Code. To wit the following paragraph from the order impugned may be noted:

“Considered the submissions and perused the materials on record. It is found that this amendment petition has been filed almost after seventeen months of commencing in full. It is further found that the plaintiffs have already been examined in full. It is further found that the plaintiffs nos. 1-3 are the sons of Sudarshan Mondal, so they must be aware that their father was an employee of Port Trust and was a pension holder. Furthermore, as the document in dispute has been found from the custody of the plaintiffs. As per the Proviso of Order VI Rule 17 of the Code of Civil Procedure, an amendment, after the trial has been commenced, can be allowed only when the Court comes to the conclusion in spite of due diligence, the party could not have raised the matter before the commencement of trial. In this suit, this Court cannot come to the conclusion that the plaintiffs could not raise the matter before the commencement of the trial.”

11. For all the reasons aforesaid, this Court does not find any illegality and/or material irregularity in the order impugned and as such, the same is not interfered with.

12. CO 825 of 2026 stands dismissed without any order as to costs.
13. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)