

20.01.2026
Ct. No. 30
SL No. **39**
MKP

CO 3346 of 2022

Shrimati Jayasree Paul And Ors

Vs.

Shrimati Kausalya Devi Shaw And Ors.

Mr. Rabindranath Mahato
Mr. Aritra Shankar Ray

.....for the Petitioners

- 1.** The revisional application has been preferred challenging order no.54 dated August 22, 2022 passed by the learned Civil Judge, Junior Division, 2nd Court at Alipore, District-24-Parganas (South) in Title Suit No.18 of 2014.
- 2.** Vide the order under challenge the Trial Court rejected the petitioners application under order 6 Rule 17 CPC praying for amendment of the plaint.
- 3.** Vide the impugned order under challenge, the Trial Court held as follows:

“It appears that the facts of the proposed amendment came into the knowledge of the petitioner after the argument of the defendant and at the subsequent stage. However, the

document filed by the petitioner clearly shows that the property amalgamated is 5/C/1A/1 and is not 5C/1A. Therefore, I am of the opinion that the proposed amendments sought for are not formal in nature and are not necessary for proper adjudication of this suit. Moreover, the proposed amendments shall change the nature and character of the suit as well as the suit property.”

4. From the record, it appears that the schedule in the copy of the plaint is annexed to the revisional application is as follows:

“SCHEDULE OF THE PREMISES

ABOVE REFERRED TO:

*ALL THAT piece and parcel of a **shop room** measuring 48 sq.ft. (6ftX8ft) made of brick built walls with pucca roof at the ground floor of the building at premises no.12/C Dover Terrace, at present 5C/1B Dr.S.N.Ghosh Sarani, under ward no.85 of the Kolkata Municipal Corporation, P.S. Gariahat, Kolkata-700019, within the jurisdiction of this Ld.Court.”*

5. The petitioner has now filed a document which is at page 21 of the revisional application

wherein, it appears that the document has been issued by the Assessment Department of the Kolkata Municipal Corporation and it appears therein that the suit property being **5C/IB has been amalgamated with 5/C/IA/1 of the Dr. S.N.Ghosh Sarani, P.S.- Gariahat, Kolkata-700019.**

6. As such the Trial Court's finding is not in accordance with law, as the amendment prayed for is necessary for proper adjudication of the suit, which is a suit for eviction.
7. The petitioner relies upon the judgment of the Supreme Court case in ***(2022) 16 SCC1, Life Insurance Corporation Of India Vs. Sanjeev Builders Private Limited And Another***, in support of his prayer for amendment at the stage of Trial Court.
8. The opposite party in spite of due service has not appeared.
9. In view of the reasons above, the impugned order dated 22.08.2022 passed by the Learned Civil Judge, Jr.Division, 2nd Court, Alipore, is set aside.
10. **The amendment as prayed for and the application under Order 6 Rule 17 CPC is allowed.**
11. The plaintiff/petitioner herein is granted leave to file amended plaint before the Trial Court

with a copy to the defendant/opposite party who shall be at liberty to file his written statement within a specified period.

- 12.** It is made clear that the plaintiff/petitioner herein shall be at liberty to prove by way of evidence, oral and documentary, the amendment made vide this orders, one of which shall be calling for the records of the Kolkata Municipal Corporation of the Assessment Department to prove the amalgamation as claimed with opportunity to both sides to adduce relevant evidence.
- 13.** Considering that it is the plaintiff's suit which is being delayed, no prejudice shall be caused to the defendant/opposite party whose eviction is being prayed for.
- 14.** The Civil Revision **No.3346 of 2022** along with **CAN 3 of 2025** stands **disposed of**.
- 15.** Interim order, if any, stands vacated.
- 16.** Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]