

30.01.2026
SL No.9
Court No.6
(gc)

CO 3883 of 2025

Smt. Renuka Meshram
Vs.
S. Mohan Rao & Ors.

Mr. Soumavo Mukherjee,
Mr. Indranil Munshi

.....for the Petitioner.

Mr. Sukanta Das

...for the Opposite Party No.3.

1. The affidavit of service is taken on record.
2. The petitioner is aggrieved by an order dated June 23, 2025 passed by the learned Civil Judge (Junior Division), Kharagpur, Paschim Medinipur in connection with Title Suit No.55 of 2020. By the order impugned, the learned Court allowed an application for amendment of the written statement at a stage when the evidence had commenced.
3. The Court was of the view that the amendment sought to be incorporated was to primarily include certain registered deeds which the defendants had come across during the pendency of the suit. According to the Court, the delay had been explained and no prejudice would be caused to the plaintiff if the amendment was allowed. Although, trial had technically commenced, according to the Court, the evidence had not been concluded and the Court found merit in the explanation offered by the defendant that

the facts sought to be incorporated could not be raised earlier.

4. The Court also found that the deeds and the facts which were elaborated in the amendment application were already referred to in the written statement, albeit in a brief and general form. The amendment would provide further clarity.
5. With such reasons, the Court found that as no substantial prejudice would be caused to the plaintiff, if the amendment is allowed. The plaintiff was also granted liberty to file a rejoinder. Cost of Rs.1500/- was imposed.
6. Learned Advocate for the petitioner submits that the amendment was belated. No explanation had been given as to why such belated amendment was brought in when the evidence of DW1 had commenced and the evidence of PW had been closed. Further, the opposite parties failed to show that, in spite of due diligence, the documents sought to be relied upon in the amendment could not be produced before the Court at an earlier date. Reliance has been placed on the decision of the Hon'ble Apex Court in the matter of ***Dinesh Goyal alias Pappu Vs. Sumar Agarwal (Bindan) and Others*** reported at **2024 SCC OnLine SC 2615**, in support of the contention that amendment could not be allowed as a matter of course

and that amendments could only be allowed if it did not cause injustice and were necessary for determining the real question in controversy.

7. The learned Advocate for the opposite party no.3 submits that the amendment was formal in nature and only elaborations of the averments made in the earlier statement were sought to be made. The deeds relied upon were all registered deeds and they would be tendered in evidence by DW1. The evidence of DW1 had just commenced. The court held there was no inordinate delay in filing the application for amendment.
8. Having heard the learn Advocates for the respective parties, I find from perusal of the schedule of amendment that the opposite parties wanted to elaborate and explain the chronological events as to how the property devolved. In support of their contentions, they relied on certain registered deeds. The earlier written statement also dealt with the facts with regard to the devolution of the property, but those averments were somehow inadequate or non-explanatory. This is not a situation in which the amendment, if allowed, would cause grave injustice to the plaintiff, inasmuch as, there is neither withdrawal of any admission nor setting up of a contrary case to what was earlier pleaded in the written statement.

Elaborations can always be allowed. The registered deeds which form part of the defence case can be brought on record. The amendment does not cause prejudice to the plaintiff, except for the delay and, in my opinion, for such delay the plaintiff can be compensated with costs.

9. Under such circumstances, the order impugned is not interfered with, but the cost component is modified to Rs.5,000/-. Cost of Rs.5,000/- shall be paid to the petitioner within three weeks from date.
10. The amended written statement shall be accepted only after such cost is paid. The petitioner shall file a rejoinder as already permitted by the Court, within such extended time as may be permitted by the court. The dates shall be fixed by the learned Court and the learned Court shall proceed with the suit. If necessary, the petitioner may also seek recall of PWs, to adduce further evidence on the averments in the amended written statement.
11. If the cost is not paid as directed, then the amendment of the written statement shall not be accepted.
12. The suit shall be disposed of expeditiously.
13. Accordingly, the revisional application is disposed of.
14. There shall be no order as to costs.

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

(Shampa Sarkar, J.)