

11.02.2026
Ct. No. 30
S.L. No. 32
SM

CO 3937 of 2023
Sri Kaushik Chatterjee
Versus
Biswarup Biswas & Ors.

Mr. Sounak Bhattacharya
Mr. Sounak Mandal
Mr. Abhirup Halder
Mr. Anirban Saha Roy
Ms. Bipasha Bhattacharyya
.....for the petitioner
Mr. Amit Baran Dash
Mr. Mrinal Das
Mr. Raja Adhikary
.....for the opposite party

1. The revisional application has been preferred challenging an order dated 23.08.2023 passed by the learned Civil Judge (Junior Division) at Bidhannagar, District-24 Parganas (North) in Ejectment Suit No. 54 of 2005 (C.I.S. No. 54 of 2005).
2. Vide the impugned order the learned Trial Court has been pleased to reject the petitioner's application under Order 6 Rule 17 CPC after a contested hearing on the ground that the said amendment would change the nature and character of the suit.
3. Heard the learned counsels for the parties who have relied upon the following judgments. The opposite party herein has relied upon the judgment in **2020(1) Indian Civil Cases 408(Cal.) Samir Kumar Kundu versus Smt. Dipali Roy & Ors.**
4. It appears from the said judgment relied upon that they are not similar to the facts in this case. On the other hand, the petitioner has relied upon an order

of a Co-ordinate Bench passed in CO 3947 of 2023 dated 18.12.2023.

5. On hearing the learned counsels for the parties and on perusal of the materials on record, it appears that the plaintiff herein initiated a suit for eviction under the Premises Tenancy Act against the original tenant being the father of the present defendants.

6. On the death of the original tenant, mother of the defendants was substituted and brought on record. On the death of the mother of the defendants/spouse of the original tenant, the present defendants were brought on record by way of substitution.

7. The petitioner's contention is that, the fact of the said death of the original tenant and then his spouse is required to be brought in by way of amendment, as these are **subsequent events** and has to be incorporated, considering that the same is necessary for proper adjudication of the suit.

8. Learned counsel for the petitioner submits that whether the right of tenancy of the present defendants still remains in respect of the suit property, is a factor to be decided by the Trial Court and the same shall not prejudice the defendants/opposite parties herein in any manner whatsoever.

9. Considering that they are already on record, it is only the admitted facts which are to be brought on record being subsequent events.

10. It is further submitted by the petitioner/plaintiff that whether the case shall be decreed or dismissed is a risk the petitioner is willing to take before the Trial Court.

11. Learned counsel for the defendant/opposite party submits that such amendment without praying for amendment of relief in the suit cannot be permitted. To counter the same, the learned counsel for the petitioner submits that it is his case and he is the best Judge to decide the frame of the suit.

12. It is further contented that there are no new facts sought to be brought in, other than admitted events subsequent necessary for proper adjudication of the case and the same will not prejudice the defendant/opposite party in any manner whatsoever as these are admitted facts and matter of record.

13. Considering the said facts, the impugned order dated 23.07.2023 passed by the learned Civil Judge (Jr. Divn.) is hereby set aside. The application under Order 6 Rule 17 is allowed. The petitioner is permitted to amend the plaint as prayed for and file an amended plaint before the Trial Court.

14. The trial Court shall grant an opportunity to the defendant to file their additional written statement within the time permitted and then proceed with the suit expeditiously.

15. The Trial Court while proceeding with the suit shall consider the point of maintainability while

deciding all the issues framed in the suit, by passing a judgment, which shall include a specific finding on the point of maintainability.

16. **CO 3937 of 2023 stands disposed of.**

17. Applications, if any, connected thereto stand disposed of consequently.

18. Interim order, if any, stands vacated.

19. 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]