

N.22S1
151/CL

CO 4496 of 2025

Ashis Mukherjee

v.

Samir Kumar Sengupta

18.06.26
DL-20
Ct-06
(S.R.)

Mr. Sabyasachi Mukherjee
Mr. Biswajit Mukherjee
Ms. Debjani Chakraborty
Mr. Ranabeer Halder ... for the petitioner.

1. This revisional application is directed against an order dated September 19, 2025 passed by the learned Civil Judge (Junior Division), 2nd Court at Barrackpore in Ejectment Suit No.69 of 2009 whereby the opposite party's application for amendment of plaint under Order 6 Rule 17 of the Code of Civil Procedure, 1908 has been rejected.
2. The opposite party has instituted Ejectment Suit No.69 of 2009 before the learned Civil Judge (Junior Division) 2nd Court at Sealdah praying, *inter alia*, for a decree of eviction of the petitioner, recovery of khas possession and *mesne profits*. The petitioner has been contesting the suit by filing written statement.
3. In the said suit, the petitioner filed an application under Order 6 Rule 17 of the Code praying for amendment of plaint seeking to introduce certain facts that took place subsequent to the institution of the suit and certain other explanatory and clarificatory facts. The learned Trial Court has

allowed such application by the order impugned.

4. Feeling aggrieved thereby, the petitioner has approached this Court by filing the present revisional application.
5. Learned advocate appearing for the petitioner vehemently contends that amendment of plaint and amendment of written statement stand on different footings and the amendment sought for by the opposite party ought not to have been allowed by the learned Trial Court. In support of his contention, he relies on a judgment of the Hon'ble Supreme Court in the case of ***Usha Balasaheb Swami & Ors. vs. Kiran Appaso Swami & Ors***, reported at **(2007) 5 SCR 306**.
6. Heard learned advocate appearing for the petitioner and perused the material on record.
7. It is not in dispute that trial has not yet commenced. It is noticed from the application for amendment as well as the order impugned that the amendments sought for do not change the nature and character of the suit. The amendments sought to be introduced are such that they would help the Court in determining the real question in controversy between the parties and, as such, the learned Trial Court cannot be said to have faulted in allowing the application for amendment.
8. Insofar as the judgment of the Hon'ble Supreme

Court in ***Usha Balasaheb Swami & Ors.*** (supra) is concerned, the same would not help the petitioner in the case at hand inasmuch as by the amendments that have been prayed for and allowed by the learned Trial Court, the petitioner has neither substituted nor altered the cause of action and neither substituted nor altered the nature of claim in the plaint. The opposite party has only added subsequent events, which are necessary for determining the real controversy between the parties. The amendment thus does not change the nature and character of the suit.

9. In any event, there is no prejudice caused to the petitioner inasmuch as the order impugned reveals that the petitioner has been granted liberty to file additional written statement.
10. In such view of the matter, the order impugned does not call for any interference.
11. The learned Trial Court is requested to dispose of the suit as expeditiously as possible without granting any unnecessary adjournment to either of the parties.
12. With the aforesaid observations, CO 4496 of 2025 stands disposed of. No costs.
13. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)