Judgment Dated: 25-11-2026
WBCHCJ0059682026

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURISDICTION

BEFORE:
THE HON'BLE JUSTICE OM NARAYAN RAI

C.O. 181 OF 2026

SRI DHIREN ROY @ DERENDRA NATH ROY .....PETITIONER

-VERSUS-

SMT. ANNABALA ROY & ORS. .....RESPONDENTS

For the Petitioners : Mr. Haider Ali, Adv.
Mr. Satyam Sarkiar, Adv.

For the Respondents : Mr. Abhijit Raha, Adv.

Hearing concluded and judgment delivered on : 25.11.2026

OM NARAYAN RAI, J.:-

1. This revisional application assails an order dated September 14 2026 passed by the learned Civil Judge, (Junior Division), 2nd Court at Jalpaiguri in Title Suit No. 520 of 2022 whereby the opposite party's application for amendment of plaint under Order VI Rule 17 of the Code of Civil Procedure 1908[1] has been allowed.

2. The predecessor in interest of the opposite parties herein had instituted Title Suit No. 520 of 2022 praying *inter alia* for a decree for declaration of title and permanent injunction in respect of a plot of land. During pendency of the suit the original plaintiff (i.e. the predecessor in interest of the opposite parties herein) died and the opposite parties have been substituted in his place and stead as plaintiffs. The said suit is being contested by the petitioner by filing

[1] **Hereafter "the Code"**

written statement denying all the material allegations of the plaint. The petitioner has also filed a counter claim claiming adverse possession over the suit property.

3. After the arguments were heard and the matter was fixed for passing orders the opposite parties filed an application under Order VI Rule 17 of the Code for amendment of plaint contending therein that the suit property had been incorrectly described in the plaint due to typographical errors. Such application was contested by the defendant by filing written objection thereto.

4. The learned Trial Court, by the order impugned, allowed the opposite parties' application under Order VI Rule 17 of the Code by holding that the amendment was necessary for proper adjudication of the dispute between the parties and the same would not cause prejudice to either of the sides. The Trial Court further held that the proposed amendment was only for rectification of wrong description of the property in the schedule and the same did not change the property in dispute. It was also held that the amendment helped in identifying the subject land over which both the parties were claiming their respective rights on the basis of the same *patta.*

5. Mr. Sarkar, learned advocate appearing for the petitioner vehemently contends that the learned Trial Court has committed a serious error in allowing the opposite parties' application for amendment after conclusion of the hearing despite the opposite party being unable to demonstrate due diligence. It is further submitted that the opposite parties witness (PW1) has in his affidavit of evidence-in-chief reiterated the same plot numbers and Khatian number as mentioned in the plaint which the opposite party has subsequently sought to get corrected by way of amendment. It is submitted that such an amendment would create confusion as evidence would not match the pleadings.

6. Mr. Sarkar relies on a judgment of the Hon'ble Supreme Court in the case of ***J. Samuel and Others Vs. Gattu Mahesh and Ors.***[2] for the proposition that in terms of the proviso to Order 6 Rule 17 of the Code, no amendment should be allowed unless due diligence is demonstrated by the person seeking amendment. An unreported judgment of a Co-ordinate Bench of this Court in the case of ***Avijit Mukherjee & Ors. Vs. Srikumar Mukherjee & Ors.***[3] has also been relied on for the same purpose.

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[2] 2012 (2) SCC 300
[3] CO. 1752 of 2016 delivered on June 14, 2016

7. Mr. Raha, learned advocate appearing for the opposite party submits that the learned Trial Court has not committed any error in passing the order impugned. It is submitted that the amendment sought for is only to correct the typographical errors that had crept in the plaint and that the amendment allowed would not adversely affect the petitioner in any manner.

8. Mr. Raha further submits that the plaint as originally filed carried the correct description. However upon the death of the original plaintiff and substitution of his heirs and legal representatives, the plaint was required to be suitably amended to incorporate the relevant details of his heirs and legal representatives in the body of the plaint and accordingly an application for amendment was filed. In support of his contention, he has produced a copy of the application for amendment filed before the learned Trial Court on December 20, 2023, which is taken on record. It is submitted that it will be apparent from the said application that the same did not contain any prayer for amendment of the schedule of the plaint. It is submitted that while filing the amended plaint the mistake occurred which continued.

9. Relying on a judgment of the Hon'ble Supreme Court in the case of ***Peethani Suryanarayana & Anr. vs. Repaka Venkata Ramana Kishore & Ors.***[4], it is submitted that wrong description of property made in the plaint can always be corrected- even after passing of the decree.

10. Another judgment of the Hon'ble Bench of the Hon'ble Supreme Court in the case of ***Sajjan Kumar vs. Ram Kishan***[5] has been relied on to contend that all amendments which are necessary for the purpose of binging to the fore the real question in controversy between the parties should be allowed to avoid needless complications at this stage of execution must be allowed.

11. Heard learned advocates appearing for the respective parties and considered the material on record.

12. The schedule of plaint as originally filed (at page 23 of the revisional application) describes the suit property as follows:

> *"All that piece or parcel of vacant land measuring 40 Decimals situated within Mouza-Patkidaha, recorded in R.S. Khatian No. 69 and 16 R.S Plot No. : 339 contains 0.30 acres and R.S. Plot No: 717 contains 0.10 acres under Police Station: Dhupguri, District Jalpaiguri."*

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[4] **(2009) 11 SCC 308**
[5] **(2005) 13 SCC 89**

13. The plaint was subsequently sought to be amended by way of an application filed on December 20, 2023 where evidently no prayer for amendment of the schedule of the plaint was sought. That being so there could have been no occasion to tinker with the schedule of the plaint. Yet, curiously, the schedule of the land changed and was described thus in the amended plaint (page 53 and 67 of the revisional application)

> *"All that piece or parcel of vacant land measuring 40 Decimals situated within Mouza-Patkidaha, recorded in R.S. Khatian No. 217 R.S. Plot No. 69 contains 0.30 acres and R.S Plot No: 16 contains 0.10 acres under police Station: Dhupguri, District Jalpaiguri. The said land measuring 40 Decimals is butted and bounded as follows: North: Gram Panchat Kachha Road; South : Land of Kuchiuddin and Sufiuudin;".*

14. Since it is beyond dispute that the plaint, as originally filed, contained the correct schedule of land and the schedule of the amended plaint got changed without there being any prayer for amendment thereof, such change was clearly impermissible. The original schedule should therefore be deemed to be the correct schedule. This is one way to look at the matter.

15. Even otherwise, the amendment sought for by the opposite parties in the suit is this:

> ***"PROPOSED AMENDMENT OF THE SCHEDULE***
>
> *1. In the Schedule of the Plaint, the existing description of the property be completely substituted and replaced by the following updated schedule:*
>
> ***"SCHEDULE OF THE SUIT PROPERTY"***
>
> *All that piece or parcel of vacant land measuring 40 decimals, situated within Mouza-Patkidaha, J.L. No. 217, recorded in R.S. Khatian Nos. 69 and 16, comprising R.S. Plot No. 339 (measuring 0.30 acres) and R.S. Plot No. 717 (measuring 0.10 acres), under Police Station - Dhupguri, District - Jalpaiguri, West Bengal.*
>
> *The said land measuring 40 decimals is butted and bounded as follows:*
>
> ***North**: Gram Panchayat Kachha Road*
>
> ***South**: Land of Kuchiuddin and Sufiuddin*
>
> ***East**: Land of Dhup Roy*
>
> ***West**: Land of Sirajul Haque"*

16. In support of such amendment the opposite parties have pleaded thus in their application for amendment:

*"**3.** That during a recent perusal and review of the case records by the learned Advocate for the Plaintiff, certain inadvertent, material, and typographical errors were detected in the description of the suit land outlined in the Schedule of the Plaint. Specifically, the J.L. Number was erroneously recorded as 'Khatian No. 217' instead of the correct J.L. No. 217; the correct Khatian Numbers, which are 69 and 16, were mistakenly erroneously recorded as 'Khatian No. 217" and the actual R.S. Plot Numbers 339 and 717 were wrongly transcribed as Plot Numbers 69 and 16.*

***4.** That the aforementioned discrepancies are entirely clerical and typographical in nature, arising out of a bona fide oversight during the drafting stage. Furthermore, the Defendant did not raise any objections regarding the identity or specific boundaries of the schedule property during the arguments or at any prior stage of the proceedings. Thus, the mistake is completely unintentional, and the proposed amendment is urgently required for a just and proper adjudication of the real controversies between the parties."*

17. Looking at the facts in totality it can be safely inferred that the errors are clearly clerical and typographical. Law on this score is well settled that correction of misdescription of a property or correction of a typographical or clerical error in description of property should be liberally permitted.

18. In the case of ***Sajjan Kumar*** (Supra) the Hon'ble Supreme Court permitted correction of description of the suit premises in the plaint when the suit was at the final stage. Such amendment was permitted even though the plaintiff was utterly negligent and had failed to take corrective measures despite the the mistake being pointed out. The following paragraphs may be noted in such context:

*"**3.** The prayer for amendment was opposed on behalf of the defendant-respondent. The principal ground for opposition was that although the defendant-respondent had taken the plea in the written statement itself that the suit premises were not correctly described, yet the plaintiff-appellant proceeded with the trial of the suit and did not take care to seek the amendment at an early stage.*

***5.** Having heard the learned counsel for the parties, we are satisfied that the appeal deserves to be allowed as the trial court, while rejecting the prayer for amendment has failed to exercise the jurisdiction vested in it by law and by the failure to so exercise it, has occasioned a possible failure of justice. Such an error committed by the trial court was liable to be corrected by the High Court in exercise of its supervisory jurisdiction, even if Section 115 CPC would not have been strictly applicable. It is true that the plaintiff-appellant ought to have been diligent in promptly seeking the amendment in the plaint at an early stage of the suit, more so when the error on the part of the plaintiff was pointed out by the*

defendant in the written statement itself. Still, we are of the opinion that the proposed amendment was necessary for the purpose of bringing to the fore the real question in controversy between the parties and the refusal to permit the amendment would create needless complications at the stage of execution in the event of the plaintiff-appellant succeeding in the suit."

19. In the present case it is undisputed that both the parties have relied on the same document being the *patta* to assert their respective claims as would be evident from their respective pleadings. The suit property is the same property that is covered by the *patta.* The learned Trial Court has rightly taken note of that and held that there is neither any element of surprise nor prejudice involved in the present amendment. It is also true that the petitioner has never objected to the fact that the suit property is different from the one mentioned in the *patta*.

20. Similarly, in the case of ***Peethani Suryanarayana & Anr.*** (supra) description of the suit property was allowed to be corrected by way of amendment of the plaint even after passing of the final decree in a partition suit, which had attained finality. In the said case, much similar to the case at hand, there was a misdescription of the property in suit. The facts are succinctly captured in paragraph 9 of the judgment and the law on the subject summarised in paragraph 10 thus:

> ***9.*** *The factual matrix involved in the matter, as noticed hereinbefore, is not in dispute. It is also not in dispute that in the plaint the suit land was described as Revisional Survey No. 165. The village became a part of the municipality, by reason whereof a new town survey was assigned to the suit land being Town Survey No. 463. However, in the plaint and consequently in the preliminary decree as also in the final decree, Town Survey No. 462 was mistakenly mentioned, which was evidently a typographical mistake.*
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> ***10.*** *The power of the court to allow such an application for amendment of the plaint is neither in doubt nor in dispute. Such a wide power on the part of the court is circumscribed by two factors viz. (i) the application must be bona fide; (ii) the same should not cause injustice to the other side; and (iii) it should not affect the right already accrued to the defendants.*

21. Both the factual matrix of the said case in ***Peethani Suryanarayana & Anr.*** (supra) as well as the legal principle apply squarely to the facts of the present case.

22. This Court is cognizant of the fact that the threshold bar of due diligence must be crossed by the applicant for amendment in terms of the proviso to Order VI Rule 17 in cases where trial has commenced but then the said bar, as would be evident from the multitude of authorities, is applicable more to substantive

amendments than to amendments in the nature of correction of *bonafide* typographical errors or clerical errors. There is nothing in the facts of the present case to infer that the amendment sought for is *malafide*.

23. Indeed the Court can in appropriate cases also invoke its powers under section 153 of the Code to correct such errors in the plaint. In the case of ***Purushottam Umedbhai and Co. v. Manilal and Sons***[6], the Hon'ble Supreme Court had held that misdescription of parties to the plaint could also be corrected by invoking the provisions of section 153 of the Code even if the provisions of Order VI Rule 17 was not applicable strictly. While ***Purushottam Umedbhai*** (supra) dealt with the misdescription of a party, there is no reason why an identical principle cannot apply with equal force to a clerical misdescription of the suit property in the plaint schedule where the identity of the property is already established on record and is undisputed.

24. The judgment of the Hon'ble Supreme Court in the case of ***J. Samul and Ors.*** (supra) cannot came to the aid of the petitioner in the present proceeding inasmuch as, in the said case, the amendment that was sought for was of a substantive nature where a mandatory pleading was omitted. In such regard the following paragraph may be noted:

> *"**17.** An argument was advanced that since in the legal notice sent before the filing of the suit, there is reference to readiness and willingness and the plaintiff has also led in evidence, nothing precluded the court from entertaining the said application which we are unable to accept in the light of Section 16(c) of the Specific Relief Act as well as proviso to Order 6 Rule 17. The only reason stated so in the form of an affidavit is omission by "type mistake". Admittedly, it is not an omission to mention a word or an arithmetical number. The omission is with reference to specific plea which is mandated in terms of Section 16(c) of the Specific Relief Act."*

25. It is also worth noticing that the Hon'ble Supreme Court rejected the plea of the omission being a typographical error not by saying that the same would also be hit by the proviso to Order VI Rule 17 of the Code due to lack of due diligence but by holding as follows:

> *"**21.** In the given facts, there is a clear lack of "due diligence" and the mistake committed certainly does not come within the preview of a typographical error. The term "typographical error" is defined as a mistake made in the printed/typed material during a printing/typing process. The term includes errors due to mechanical failure or slips of the hand or finger, but usually excludes errors of ignorance. Therefore, the act of neglecting to perform an*

[6] **1960 SCC OnLine SC 126**

action which one has an obligation to do cannot be called as a typographical error. As a consequence the plea of typographical error cannot be entertained in this regard since the situation is of lack of due diligence wherein such amendment is impliedly barred under the Code.

22. *The claim of typographical error/mistake is baseless and cannot be accepted. In fact, had the person who prepared the plaint, signed and verified the plaint showed some attention, this omission could have been noticed and rectified there itself. In such circumstances, it cannot be construed that due diligence was adhered to and in any event, omission of mandatory requirement running into 3 to 4 sentences cannot be a typographical error as claimed by the plaintiffs. All these aspects have been rightly considered and concluded by the trial court and the High Court has committed an error in accepting the explanation that it was a typographical error to mention and it was an accidental slip."*

26. For the same reasons, the unreported decision of the Co-ordinate of this Court in the case of ***Avijit Mukherjee & Ors.*** (supra) is also not helpful to the petitioner in the present case.

27. The submission of Mr. Sarkar that as the evidence-in-chief contains the incorrect description, it would create confusion, would also not further the petitioner's case in the present fact situation where both the parties are relying on the same document of title i.e. the *patta.* Evidence must be seen as whole and the deposition will therefore have to be seen in the light of the documents of title which have been exhibited by both the parties.

28. For all the reasoned aforesaid, the order impugned does not call for any interference. With the above observations, CO. 181 of 2026 stands dismissed. There shall be no order as to costs.

29. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)