

IN THE COURT OF DISTRICT JUDGE, BANKURA
Present: Mir Rashid Ali(WB00701)
District Judge, Bankura

Title Suit 01 of 2015
Reg. 3 of 2015
CNR NO: WBBK01-000954-2015

Order No. 91
19.08.2025

Today is fixed for hearing of the petition under Order 6 Rule 17 read with Section 151 of CPC.

Ld. Advocates for both sides are present.

Heard the Ld. Lawyer for the plaintiffs and the Ld. Lawyer for the contesting defendants.

The application under Order 6 Rule 17 read with section 151 of the Civil Procedure Code supported by an affidavit is taken up for consideration and passing order.

Now, by filing the application the plaintiffs intend to incorporate certain facts which according to the plaintiffs is necessary for proper adjudication of the suit.

The Ld. Lawyer on behalf of the plaintiffs while pressing his application submits that the defendants were injuncted on 22.12.2023 by this Court wherein the defendants were restrained from using the trademark logo and trade name 'Beautiful Bishnupur Mukhpora Bidi'.

It is submitted further that the defendants in a deceitful manner are carrying on Bidi business by using the name as 'Sri Sri Chaitanya Bidi' of a man bust of Arobinda Bhai Patel.

It is submitted further that the petition for amendment is filed within time as there is no intentional delay on the part of the petitioner.

It is also submitted that the amendment as sought for is necessary for proper adjudication for the suit.

The Ld. Lawyer also relied on a decision passed by the Hon'ble Court in CO no. 910 of 2020 dt. 05.12.2024 in case of Samir Ghosh and another vs Pratap Ghosh and others.

The Ld. Lawyer thus submitted that the amendment as sought for is necessary for proper adjudication for the suit.

More so, it is submitted by the plaintiffs that the defendants will not be prejudiced if the proposed amendment is made as merely an affidavit in chief has been filed by the petitioners/ plaintiffs.

Ld. Lawyer on behalf of the defendant no.3 challenged the amendment petition on the ground that the same is not maintainable.

It is also assailed by the Ld. Lawyer for contesting defendant no.3 that the proposed amendment, if allowed, will change the nature and character of the suit.

It is also highlighted by the Ld. Lawyer for the contesting defendants that they will be prejudiced if the proposed amendment is allowed.

It is also submitted that the proposed amendment is filed at the belated hour.

Heard the Ld. Lawyer for the rival parties.

Perused the amendment petition duly supported by an affidavit.

Perused the cited decision.

The law is very much settled and clear that the amendment petition is usually discouraged after the suit is fixed for hearing. However, there is an avenue when the

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plaintiffs justify the court that there was a fair reason for not filing the petition within time.

On overall perusal of the record and petition, I am of the view that the proposed amendment as sought for is necessary to address the real matter in controversy.

I also feel that the defendants will have no reason to be prejudiced provided they may be given a fair opportunity to file additional Written Statement, if any.

I also feel that the proposed amendment will not change the nature and character of the suit.

Hence, keeping in mind the facts and circumstances, I am inclined to allow the petition for amendment subject to payment of cost of Rs.500/-.

Hence,

Ordered,

that the petition under Order 6 Rule 17 filed on 17.07.2025 is considered and allowed on contest with cost of Rs. 500/-

The plaintiffs are directed to file amended plaint and additional written statement may be filed on behalf of the defendants, if any.

To **10.09.2025** for filing amended plaint and additional written statement, if any.

Dictated & Corrected by

Sd/-

(Mir Rashid Ali)

District Judge, Bankura

Sd/-

(Mir Rashid Ali)

District Judge, Bankura