

LR Misc CAse 04 of 2023

Order No. 36 Dated:23.02.2026

Today is fixed for passing order in respect of the petition under 6 Rule 17 of CPC.

Both parties filed hazira.

Ld. Advocate for the petitioner submitted that the OP No. 1 has mentioned in the written statement that Gobinda Chandra Mete has executed sale deeds in favour of Anil Mondal, Sushil Kr. Mondal, Sunil Kr. Mondal, Dilip Mondal. It was also alleged that Atul Ch. Mete has transferred 1 acre of land from plot No. 153 in favour of Satyaprasad Roy by virtue of the registered sale deed dated 01.03.1968 and Satyaprasad Roy transferred the same to Durgamoni Mete by virtue of the registered sale deed dated 08.04.1972. Atul Mete also transferred 2 Acre of land to Samar, Susanta and Prsanta Mete by virtue of the registered deed of sale dated 03.03.1974. Rohini Mete also transferred some property to Sova Shaw. The OP has suppressed the material facts in respect of the transfer and as such the amendment is necessary to bring out the real picture before the Court. The facts which needs to be inserted is that Atul Ch. Mete transferred 1 Acre of land from suit plot No. 153 to Satyaprasad Roy by virtue of the registered sale deed in the year 1968 and there was an oral agreement of recovery with Satyaprasad Roy. Accordingly, Satyaprasad Roy reconveyed 1 acre of land from the suit plot No. 153 to Atul Ch. Mete by virtue of the registered sale deed dated 17.04.1970. Durgamoni Mete, Samar, Susanta and Prsanta Mete filed a Title Suit No.60/1999 before the Ld. Civil Judge (Jr. Divn.), Amta, Howrah in respect of the suit property against Subhas Maity, Gopal Maity, Hiru Bar, Bansi Bar, Mohon Shaw, Hiru Khan, Sachikanta Mete, Rohini Mete, Nilu @ Krishan Mete, and a Misc. Case u/O 39 R 2 A which was dismissed. The subsequent transfer made by Satyaprasad in favour of Durgamoni Mete by virtue of the registered deed of sale dated 08.04.1972 is of no avail and Satyacharan has no transferable right as he has already transferred the property to Arun Mete in the year 1970. If it is not corrected then the real controversy in dispute will not be determined. This amendment will not change the nature, character and cause of action of the suit. The amendment proposed is formal in nature.

Hence the petitioner prays for amendment of the plaint as per the schedule mentioned in the petition.

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Ld. Advocate of the OP raised vehement objection stating that the fact the petitioner wants to insert is neither fact in issue nor relevant fact for this case as the date of execution and the deed Nos. are different. The TS 60 of 1999 has no nexus with this case. So this amendment should not be allowed.

Heard. Considered.

After perusal of the record and the petition it is seen that the petitioner wants to amend the plaint by inserting the fact that Atul Ch. Mete transferred 1 Acre of land from suit plot No. 153 to Satyaprasad Roy by virtue of the registered sale deed in the year 1968 and there was an oral agreement of recovery with Satyaprasad Roy. Accordingly, Satyaprasad Roy reconveyed 1 acre of land from the suit plot No. 153 to Atul Ch. Mete by virtue of the registered sale deed dated 17.04.1970. Durgamoni Mete, Samar, Susanta and Prsanta Mete filed a Title Suit No.60/1999 before the Ld. Civil Judge (Jr. Divn.), Amta, Howrah in respect of the suit property against Subhas Maity, Gopal Maity, Hiru Bar, Bansi Bar, Mohon Shaw, Hiru Khan, Sachikanta Mete, Rohini Mete, Nilu @ Krishan Mete, and a Misc. Case u/O 39 R 2 A which was dismissed. The subsequent transfer made by Satyaprasad in favour of Durgamoni Mete by virtue of the registered deed of sale dated 08.04.1972 is of no avail and Satyacharan has no transferable right as he has already transferred the property to Arun Mete in the year 1970.

Be it mentioned here that the petitioner has filed the deed No. 8456/1968 dated 13.08.1968 from which it is seen that Arun Mete has transferred 1 Acre in plot No. 153 to Satyacharan Prasad who again re-transferred the same to Arun Mete by virtue of the registered deed No. 2878/1970 dated 28.04.1970. Moreover, the OP has also filed a deed No. 1979/1968 dated 13.03.1968 on the basis of which the OP claims that Arun Mete has transferred 1 Acre in plot No. 153 to Satyacharan Prasad by virtue of deed No. 1979/1968 and not by deed No. 8456/1968. It is seen that all the deeds being No. 8456/1968, 2878/1970, 1979/1968 relates to the suit property. So there is a controversy that through which deed Arun Mete has transferred the property to Satyacharan Prasad. This controversy cannot be adjudicated without taking evidence and without going into the merits of the case.

In **Rajesh Kumar Agarwal and ors. vs K. K. Modi and ors.** it has been observed that the court can allow the amendments which is necessary for the

purpose of determining the real questions in controversy between the parties. It can be said that if the relief which could be prayed for in the new suit can also be permitted to be incorporated in the pending suit. The proposed amendment is very much formal in nature and if it is incorporated it will not change the nature and character of the suit.

Thus, considering the nature of the amendment, the stage of the instant suit and to determine the real question in controversy between the parties and also for the ends of justice the amendment sought for should be allowed. So, this Court is inclined to allow the amendment of the plaint as per the schedule mentioned in the petition.

Hence, it is

ORDERED

that the petition U/O 6 Rule 17 be and the same is hereby allowed and disposed of on contest with a cost of Rs. 500/-. The petitioner is allowed to amend the plaint as per the schedule of the present petition. The petitioner is also directed to file the amended plaint within 14 days accordingly.

To 09.03.2026 for filing of the amended plaint and payment of cost of Rs. 500/- to the OP.

Dictated & corrected by me

CJ

**Civil Judge (Jr.Div.)
Amta, Howrah**