

Title Suit 157 of 2022

Order No. 13 Dated:05.03.2025

Today is fixed for hearing of the petition under 6 Rule 17 of CPC dated 13.08.2024.

The record is taken up for hearing.

Both parties hazira.

Defendant filed written objection against the petition under 6 Rule 17 of CPC dated 13.08.2024.

Ld. Advocate for the plaintiff submitted that due to some typographical error the date of the eviction notice was returned as 31.08.2022 instead of 12.09.2022. This should be corrected. He further submitted that in the written statement the defendant has mentioned that his father was the tenant under the plaintiff and he died leaving behind 6 sons and 1 daughter. But the fact is that the defendant was the tenant under the plaintiff and he requested the plaintiff to issue the rent receipt in the name of his father as a mark of respect towards his father. Since inception the defendant was the sole tenant under the plaintiff and the father of the defendant was never the tenant and as such none of the legal heirs of the father of the defendant namely, Becharam Samanta, inherited the tenancy right. This facts needs to be inserted in the plaint by way of amendment. 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. Plaintiff relied on the following case laws:

2016 (1) ICC 820 (Cal)

(2016) 4 WBLR (Cal) 281

(2018) 3 WBLR (SC) 631

2013 (1) ICC 374

Cont....

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

Ld. Advocate of the defendants raised vehement objection stating that the amendment sought for by the plaintiff is a reply of the written statement. The father of the defendant was the tenant under the plaintiff and at the time of induction the defendant was minor. The other legal heirs of Becharam Samanta inherited the tenancy right and as such became the tenant in common. Amendment will change the nature and character of the suit. The defendant relied on the following case law:

Glen Fredric Picardo Vs. Rodney Picardo & Ors.

Heard. Considered.

After perusal of the record and the petition it is seen that the plaintiff wants to insert only some facts and wants to change the notice which is merely a typographical error.

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 without any cost. The plaintiff is allowed to amend the plaint as per the schedule of the present petition. The plaintiff is also directed to file the amended plaint within 14 days accordingly.

To 22.04.2025 for filing of the amendment plaint.

Dictated & corrected by me

CJ

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