

**In The Court of Civil Judge (Junior Division)
Lalbagh, Murshidabad**

**Present: Amrita Dey (J.O. Code WB01380)
Civil Judge(Jr. Div), Lalbagh Msd.**

**T.S - 311 of 2006
CIS - 610 of 2015**

Order No. 92 Dated: 03.12.2025

Today is fixed for hearing of amendment petition u/O 6 R. 17 of CPC dated 20.06.2025 filed by plaintiff.

Both parties are present by filing haziras.

Defendant filed W/O against the petition.

Let the petition u/O 6 R. 17 of CPC be taken up for hearing.

Learned Counsel for the plaintiff submitted that, this is suit for declaration of title and injunction by rectifying the alleged deed. Ld. Counsel also submitted that as the present fact was over looked by the plaintiff being a layman at the time of filing of this suit, as such, the fact as mentioned in the petition should be brought on record for proper adjudication of this suit and the said fact was not within the knowledge of plaintiff at the time of filing of this suit and as such, this court may please to allow the petition for proper adjudication of this case. Ld. Counsel referred two cases in favour his submission i.e. **2025 (1) ICC 36 (SC), 2025 (3) ICC 772.**

Ld. Counsel for the defendant submitted that, as per the decision of **2025 (2) ICC 746** this petition is liable to be rejected as being time barred. Ld. Counsel also submitted that, the trial and part argument of this suit has been done and then the plaintiff filed this petition only with the intention to drag the suffering of the defendant and file beyond the purview of the specific provision of CPC and thereby the amendment as prayed for by the plaintiff becomes redundant at this stage and the suit should be dismissed for misleading the court.

Having heard the submission of plaintiff and going through the record, this court is of the modest understanding that, **Firstly**, as per the provision of order 6 rule 17 of CPC that any amendment sought for after commencement of trial shall not be allowed. It appeared from the order sheet of the record that the trial has commenced in this case in the year, 2015, and the trial concluded in the year 2019 and the amendment has been filed in the year in the year of 2025 which means the amendment petition filed after commencement of trial. **Secondly**, it appeared from the record that this case has been filed in the year of 2006, the amendment petition filed in the year 2025. There is no explanation in the amendment petition as to what

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restrained the plaintiff to file the amendment petition. **Thirdly**, It has been admitted by the plaintiff that the facts as mentioned in the amendment petition are well within the knowledge of the plaintiff since 10.11.2006 but the plaintiff waited for approximately 19 years to file this amendment petition as well as those facts are not result of any subsequent event which is beyond the control of plaintiff nor it can be said that even after using due diligence, the plaintiff failed to mention this fact at the time of filing of this case. **Fourthly**, the case referred by plaintiff suggests that amendment should be allowed to rectify the absence of material particulars in plaint but in this case plaintiff failed to satisfy the proviso to Order 6, R. 17 of CPC that in spite of due diligence, the party could not have raised the matter before commencement of trial. In this case, the matter mentioned in the petition is well within the knowledge of the plaintiff but he waited for 19 long years to file the amendment petition and in both the cases so referred by the plaintiff did not give any direction for by-passing the proviso to Order 6, R. 17 of CPC.

Therefore, on the basis of the above observation, the petition so filed by the plaintiff u/O 6 R. 17 of CPC dated 20.06.2025 stands rejected, without cost.

Fix 04.02.2025 for further argument.

Considering the age of the suit, no adjournment will be allowed on the date fixed.

**D/C by me
Sd-/ Amrita Dey**

**Civil Judge (Jr. Div)
Lalbagh Msd.**

Sd-/ Amrita Dey

**Civil Judge (Jr Div)
Lalbagh Msd.**