

ORDER

11/08/2026

1. Both the parties are represented. The present Misc (J) case has been registered vide petition No. 155/24 filed by the defendants/petitioners for amending certain portions of the written statement under Order VI Rule 17 CPC read with section 151 CPC.
2. The petitioners/defendants are praying for amendment of their written statement and inserting the names of the legal heirs of the plaintiff's father namely Late Mangtaram Sangneria who was the original owner of the suit property.
3. So far as the delay which has been caused in filing this petition is concerned the petitioners/defendants have stated that talks of compromise were going on with the plaintiff for which the defendants were under an impression that the matter would be settled amicably and hence the written statement was filed in a hurry due to which the above-mentioned facts remained unstated.
4. Accordingly, the defendants/petitioners have prayed for amendment of their written statement thereby inserting the names of the two brothers of the plaintiff and their legal heirs. According to the defendant/petitioners all the legal heirs of the father of the plaintiff have shares over the suit property as the suit property is situated in a market namely Shiw Market at

Fancy Bazar, Guwahati, which is a joint family property.

5. The opposite party/plaintiff has filed his written objection and has stated that the petitioners/defendants have not stated satisfactorily as to why the petition has been filed after the trial already started and secondly he stated that the amendment if allowed will change the nature and character of the suit. Accordingly he prays for dismissing the instant petition.
6. I have heard the learned counsels for both the parties and also perused the record.
7. The present suit has been filed by the plaintiff/opposite party namely Sanjay Kumar Sangneria for the ejectment of the defendants/petitioners from the suit premise which is a room used by the defendant No.2 for running his shop namely M/S Dress India (Defendant No.1) situated at Fancy Bazar, Guwahati.
8. The suit is for the ejectment of the defendants/petitioners from the suit premise on the ground of default in payment of rent and the suit has already reached the stage of cross examination of the PWs.
9. At this stage, the proviso to order 6 rule 17 CPC assumes significance. Once the trial has commenced, an amendment cannot be allowed unless the court comes to the conclusion that, in spite of due diligence, the party could not have raised the matter before commencement of the trial.

- 10.** In the present case, in my considered opinion, the defendant has not satisfactorily explained as to why the names of the other legal heirs of the deceased father of the plaintiff could not have been incorporated in the written statement at the earliest opportunity. The mere assertion that negotiations for compromise were going on and that the written statement was filed hurriedly does not, in the facts and circumstances of the case, establish the exercise of due diligence as contemplated under the proviso to Order 6 rule 17 CPC. No particulars of the alleged compromise negotiations have been placed on record so as to demonstrate any circumstance which prevented the defendants from taking the proposed plea in the original written statement.
- 11.** Further, in a matter of landlord/tenant dispute the ownership of the tenanted demise is immaterial. If at all the other legal heirs of the plaintiff had any objection regarding the plaintiff filing the suit against the defendants, they could have themselves filed petitions for being impleaded as plaintiffs/parties.
- 12.** The question that is to be determined in the main suit is limited to the issues of default in payment of rent and bona fide requirement of the suit premises.
- 13.** Hence, the question of ownership of the suit premise does not arise.

14. Accordingly, allowing such an amendment as this stage would necessitate re-consideration of the Issues and and thereby causing delay in the proceedings of the suit.
15. Further, the mere assertion that the plaintiff is not the sole owner of the property, on the account of the existence of the other legal heirs of the deceased father, does not itself establish that the plaintiff has no right to maintain the suit.
16. Moreover, the ground shown by the petitioners/ defendants to explain the due diligence as required does not seem to be satisfactory.
17. Accordingly, **the petition is rejected.**
18. This Misc (J) case is **disposed of on contest.**