

EJECTMENT SUIT NO. 106 OF 2022
C.N.R No. WBPS01-000161-2022

IN THE COURT OF 4TH BENCH, PRESIDENCY SMALL CAUSE COURT,
CALCUTTA
PRESENT: SMT. ARCHITA SEN, JUDGE, 4TH BENCH, PRESIDENCY SMALL
CAUSE COURT, CALCUTTA.

ORDER NO-24
DATED 27-02-2025:

Today is fixed for peremptory hearing. Both the parties file separate attendance through their respective Ld. Advocates.

At this stage the plaintiff files one petition under Order VI Rule 17 of CPC along with a petition with a prayer for withdrawing the suit from the Peremptory Board.

Heard both sides. Perused the record.

Considered.

The prayer for withdrawing the suit from the Peremptory Board is allowed.

Let the suit be withdrawn from the Peremptory Board.

Now the record is taken up for hearing of the petition dated 27.02.2025 under Order VI Rule 17 of the C.P.C.

Heard both sides. Perused the case record including the petition.

Considered.

The amendment has been sought to incorporate the fact that during the pendency of the suit another tenant of the plaintiff handed over the possession of his tenanted premises. But even after getting the said tenanted premises the requirement of the plaintiff has not been mitigated because the said tenanted premises is not suitable for the purpose of carrying on business. It is submitted on behalf of the plaintiff that the proposed amendment is formal in nature and necessary for adjudication of the ground of reasonable requirement of the plaintiff. For that reasons the plaintiff files the instant petition.

Ld. Advocate for the defendant raised strong objection against the prayer of the plaintiff mainly on the ground that the suit has been fixed for peremptory hearing and the plaintiff filed this application for amendment at this belated stage of the suit.

The provision of amendment of pleadings has been incorporated in the Code of Civil Procedure to be invoked only on the circumstances when amendment is required for proper and effective adjudication of the controversy in question and to avoid multiplicity of judicial proceedings, provided it does not result in prejudice to the other side. No doubt the suit has been fixed for peremptory hearing but the evidence of the parties has not been adduced yet. The fact which the plaintiff proposes to incorporate in the plaint are subsequent facts and it was not possible for the plaintiff to come up with the proposed amendment earlier, ie prior to getting possession of the tenanted room of another tenant. This incident of getting possession of another room at the suit building by the plaintiff occurred during the pendency of the suit. It appears from the pleadings of the plaintiff that he has taken the ground of reasonable requirement. In order to establish that ground, it is the duty of the plaintiff to portray the accommodation available to him presently and the present requirement of the plaintiff and his family. In absence of such evidence it is not possible for this Court to determine the reasonableness and bona fide of the requirement of the plaintiff. So this Court thinks that the proposed amendment will help in the proper and effective adjudication of the suit and for that reason it is required to be allowed.

On perusal of the petition and post considering the contemplations of the plaint this Court is of the view that the amendments that are sought for are of such a nature that is in consonance with the facts embodied in the plaint. So in the opinion of the Court the amendment will not change the nature and character of the suit nor it is of such a nature which is barred by the law of limitation. This Court finds no impediment to allow the instant prayer.

Accordingly it is

O R D E R E D.

That let the amendment as sought for by the petition under Order VI Rule-17

of the Code of Civil Procedure, dated 27.02.2025 is allowed.

Let the petition under Order VI Rule-17 of the Code of Civil Procedure dated 27.02.2025 be treated as part of the plaint.

D.A. to do needful. Note accordingly.

Plaintiff to file amended plaint within next date positively after serving copy of the same upon the defendant. The defendant is at liberty to file additional written statement within 30 days from the date of receipt of the copy of amended plaint.

The petition under Order VI Rule-17 of the Code of Civil Procedure, 1908 dated 27.02.2025 is thus allowed and disposed of on contest and without costs, in above terms.

To 28-04-2025 for steps by plaintiff.

Typed, Corrected and Printed by me.

Judge, Bench-4
PSCC, Calcutta
J.O Code WB01174

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